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GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

- - - - -X
IN THE MATTER OF: :
2461 Corporation, :
t/a Madam's Organ : Case #15-251-00157
2461 18th Street Northwest :
License #25273 :
Retailer CT ANC IC :
Wednesday, March 9, 2016 :
- - - - -X

Wednesday, March 9, 2016

Whereupon, the above referenced matter
came on for hearing at the Alcoholic Beverage
Control Board, Reeves Center, 2000 14th Street,
N.W., Suite 400 S, Washington, D.C. 20009.

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2 CHAIRPERSON: DONOVAN ANDERSON, presiding

3

4 OTHER PERSONS PRESENT

5 NICK ALBERTI, BOARD MEMBER

6 RUTHANNE MILLER, BOARD MEMBER

7 JAMES SHORT, BOARD MEMBER

8 MIKE SILVERSTEIN, BOARD MEMBER

9

10 FERNANDO RIVERO, ESQUIRE

11 On behalf of ABC District of Columbia

12

13 BILL DUGGAN, ESQUIRE

14 On behalf of Madam's Organ

15 BIANCO, ESQUIRE

16 On behalf of Madam's Organ

17

18

19

1 P R O C E E D I N G S

2

3 CHAIRPERSON ANDERSON: The next case on the
4 calendar is Case #15-251-00157, Madam's Organ,
5 license #25273. Will the parties approach? Will
6 the parties please identify themselves for the
7 record, please?

8 MR. RIVERO: Fernando Rivero for the
9 District of Columbia.

10 MR. DUGGAN: And I'm Bill Duggan for
11 Madam's Organ and Richard Bianco is waiting in
12 the room with the attorney. They just have some
13 conference room back there, waiting.

14 CHAIRPERSON ANDERSON: Mr. Bianco, I see
15 that you're a little tardy, I mean, this hearing
16 was scheduled for 11:00, I was trying to stretch
17 and keep it -- can you identify yourself for the
18 record please.

19 MR. BIANCO: Yes, Mr. Chair, Richard
20 Bianco on behalf of the establishment.

1 CHAIRPERSON ANDERSON: Thank you, sir.
2 Good morning everyone. We're here for a show
3 cause hearing for this case. Are there any
4 preliminary matters in this case?

5 MR. RIVERO: Yes.

6 CHAIRPERSON ANDERSON: And what are they, sir?

7 MR. RIVERO: The government would like to
8 make an oral motion at this time ?? show cause.
9 It reads as follows: You failed to allow an ABRA
10 investigator to enter the licensed premises
11 without delay, or otherwise interfered with an
12 investigation. I would like to strike the phrase
13 "or otherwise interfered with an investigation"
14 since this case is about the fact that an
15 investigator was not allowed to enter the
16 premises without delay and that language is
17 covered in the first part of the sentence.

18 CHAIRPERSON ANDERSON: Mr. Bianco?

19 MR. BIANCO: No objection.

20 CHAIRPERSON ANDERSON: So stricken. Is

1 that it?

2 MR. RIVERO: That was the government's
3 preliminary matter.

4 CHAIRPERSON ANDERSON: I thought you said
5 you don't want -- normally what happens with
6 preliminary matters as I thought I was going to
7 hear an OIC and we could go to lunch, but -- I
8 was sitting waiting for more, so I'm somewhat
9 disappointed but -- all right.

10 MR. SILVERSTEIN: Life is a series of
11 disappointments, Mr. Chairman.

12 MR. BIANCO: I hope I will be likewise as
13 uncontroversial as the rest of the -- [inaudible
14 Audio 2 - 46:58].

15 CHAIRPERSON ANDERSON: Yes, Mr. Bianco.

16 MR. BIANCO: We have a witness that we
17 intended to call in this case, Kamani Mann, who
18 is an employee of the establishment. We made a
19 proffer as to his testimony to the government
20 yesterday and he has become unavailable because

1 his mother had to have emergency heart surgery
2 today. So, I informed Mr. Rivero of this
3 yesterday when I became aware of it and advised
4 him that I would be requesting of the board that
5 we go forward today but that we be allowed to
6 hold the record open and come back and take Mr.
7 Mann's testimony on a separate day. It's my
8 understanding that the government is not going to
9 object to this request.

10 MR. RIVERO: That's correct. The
11 government does not object to that request
12 provided that the witnesses that testify for the
13 licensee today understand that they cannot
14 discuss this hearing with the intended witness
15 for the second date, because the government
16 intends to invoke the rule on witnesses.

17 CHAIRPERSON ANDERSON: Mr. Bianco, as an
18 officer of the court direct representation made
19 by counsel will you advise the others today and
20 witnesses that they are prohibited from

1 discussing the testimony today? Will you advise
2 that to your client?

3 MR. BIANCO: Yes, sir, I will.

4 CHAIRPERSON ANDERSON: And as an officer
5 of the court that's all I can do. I can take
6 your representation that you'll make that clear
7 to your client. I can say things to the client
8 but it doesn't really mean anything, but I can
9 hold Mr. Bianco accountable as an officer of the
10 court.

11 MR. BIANCO: I promise.

12 CHAIRPERSON ANDERSON: No, but I'm just
13 saying that that's one of the reasons why I
14 proffered as an officer in the court because you
15 can hold attorneys accountable for things than
16 you can't necessarily hold
17 You can tell me anything that I can ask you and
18 you can go "sure" and I can discuss it but
19 there's nothing I can do but if I find out that
20 Mr. Bianco does it then I do have some recourse,

1 but I will --

2 MR. BIANCO: Perhaps as an additional
3 safeguard at the conclusion of the witnesses'
4 testimony we could instruct them not to discuss
5 their testimony with anyone.

6 CHAIRPERSON ANDERSON: I will also do
7 that, thank you. I don't -- since the government
8 does not oppose, I don't have a problem and so do
9 you have any idea how long -- when the witness
10 will be available?

11 MR. BIANCO: As early as next week I'm
12 told.

13 CHAIRPERSON ANDERSON: All right.

14 MR. BIANCO: And at the convenience of
15 the panel.

16 CHAIRPERSON ANDERSON: All right. Okay,
17 that's fine. I don't necessarily want it to be
18 that the witness is not going to be available for
19 another six months so, therefore, we're going to
20 hold this in abeyance for.

1 MR. RIVERO: Right, it certainly won't be
2 six months but timing of the second hearing will
3 also be affected by an objection that the
4 government will log during the course of this
5 hearing with respect to evidence, so we'll get to
6 that point. It's premature at this time to
7 discuss that.

8 CHAIRPERSON ANDERSON: All right, thank
9 you. Does the government wish to make an opening
10 statement?

11 MR. RIVERO: Yes. Good morning, still,
12 board members who are here in the matter of 2461
13 Corporation trading as Madam's Organ, located at
14 2461 18th Street Northwest, Washington, D.C.
15 This show cause notice issued in this matter
16 alleges that the licensee failed to allow an ABRA
17 investigator to enter the licensed premises
18 without delay in violation of D.C. Official Code
19 25823 (5). It is our belief that a preponderance
20 of the evidence based on the testimonies of the

1 witnesses the government will present today,
2 namely investigator Craig Stewart and
3 investigator Mark Brashears, together with our
4 exhibit, will show that the licensee failed to
5 allow investigator Stewart entry into the
6 establishment without delay when an employee
7 physically interposed himself and blocked
8 investigator Stewart from entering, then
9 attempted to use his body to delay investigator
10 Stewart's entry as he moved inside the premises
11 on September 5, 2015. The incident was also
12 observed by investigator Brashears who was
13 standing in close proximity. The government does
14 not doubt that the establishment understands its
15 conduct was wrongful since you will also hear
16 that testimony that employees involved apologized
17 for their conduct. This whole question for us
18 really going forward will be what the proper
19 penalty would be for the offense once we have
20 provided the necessary evidence to the board.

1 Thank you.

2 CHAIRPERSON ANDERSON: Mr. Bianco, do you
3 wish to make an opening statement or defer until
4 later on?

5 MR. BIANCO: I will make an opening
6 statement. Mr. Rivero's right that this case is
7 about whether or not the licensee failed or
8 refused to allow an ABRA investigator to enter
9 the premises without delay. The evidence is
10 going to show in this case that without question
11 that none of the things alleged by the
12 investigators in this case happened. Since about
13 May of 2015 the investigative arm of the agency
14 has been engaged in a pattern of harassment
15 against the licensee consisting of nonstop and
16 numerous inspections on a weekly basis through
17 September, the date of this incident. And the
18 reason why I say it's a pattern of harassment is
19 because it's all been on the exact same issue and
20 the exact same issue is the issue of a total

1 occupancy load of the establishment that has been
2 definitively ruled on by the D.C. Court of
3 Appeals in my client's favor. This has been a
4 dead issue since 2008. The inspections in this
5 case since May have been so persistent that Mr.
6 Duggan had to start keeping a copy of the D.C.
7 Court of Appeals opinion behind the bar to hand
8 to investigators when they came in inquiring
9 about occupancy.

10 You'll notice that the AG rightfully did
11 charge on the occupancy issue and that was
12 prominently featured on the only exhibit you'll
13 see from them today, the inspection report, and
14 you'll hear evidence that investigator Stewart's
15 real agenda came to light when he remarked on his
16 way out, "tell Duggan I'm shutting him down for
17 occupancy." I think that is very telling as to
18 what really is going on here.

19 The second thing I think we're going to
20 need to look at very seriously in this case as

1 the evidence comes to light is their thwarted
2 investigation into the alleged issue that
3 occurred on September the 5th. The evidence will
4 show that it's wholly deficient. None of the
5 dozens of eyewitnesses that were standing there
6 on the street where this allegedly occurred were
7 even interviewed. Employees weren't interviewed.
8 They didn't talk to anyone: Staff, passers by,
9 etc.

10 More importantly, the investigators never
11 requested the video from the establishment's
12 front door that clearly shows what happened on
13 September the 5th, 2015. The scary part about
14 this is by the time my client was notified that
15 there was actually an incident, that there was an
16 allegation of an incident on September the 5th
17 which didn't happen until December, my client
18 typically would not have even had the video from
19 September, but for Mr. Duggan's suspicion that
20 somebody wanted to make an issue out of this he

1 made extra efforts to retain the video for the
2 period of time. Not only did he retain it, when
3 the issue came up he offered it to the agency in
4 several conversations he had with the agency's
5 director. "Hey, I have a video. You don't seem
6 to want it." And I think when you get to see it,
7 it will become very clear why the agency doesn't
8 want it because it shows that there was in fact
9 no obstruction, it shows that the alleged
10 commission of an infraction is a complete
11 fabrication.

12 At all times you'll see Dan Carr, the
13 employee doorman who is alleged to have
14 obstructed the entrance of investigator Stewart
15 having his back to the wall allowing inspector
16 Stewart to enter, in fact holding the door open
17 as investigator Stewart walked through the front
18 door and into the establishment where he met with
19 Keisha Hamilton, the manager on duty that night.
20 The other important thing I think you will see in

1 the video is that inspector Stewart, when he
2 approached the establishment, bore no
3 identification that he was an investigator.

4 Contrary to the plain statement of the
5 report which says he had his badge out, he
6 clearly did not. When he reemerged from the
7 establishment roughly 50 seconds later, his badge
8 was prominently displayed at that point, him
9 having removed it from his pocket at some point
10 while inside and speaking with Ms. Hamilton.

11 I think at the end of the presentation of
12 the evidence there will be no question that my
13 client did not commit any infraction, let alone
14 impeding an investigator's entry into the
15 establishment. They know full well -- Mr. Rivero
16 is right -- they know full well that that's not
17 something that they can do and in this case they
18 did not. Thank you.

19 CHAIRPERSON ANDERSON: Thank you. Mr.
20 Rivero, your first witness.

1 MR. RIVERO: Thank you. The government

2 MR. BIANCO: Why is Brashears here? We
3 have two witnesses sitting inside --

4 MR. RIVERO: -- and I think we're
5 operating under that -- the parties are, I just
6 want to be clear on the record the parties are
7 operating under the rule on witnesses.

8 MR. BIANCO: But the witness should have
9 been outside.

10 MR. RIVERO: The government calls
11 investigator Stewart now.

12 CHAIRPERSON ANDERSON: Who are -- what
13 other witness would need to -- hold on. Well,
14 rule on witness, I mean, the testimony, I mean
15 the bottom line is it's an opening statement.
16 Everybody knows, but I mean not the testimony
17 itself, so who is the other witness you'll be
18 calling?

19 MR. RIVERO: Investigator Brashears.

20 CHAIRPERSON ANDERSON: No, I said who is

1 the second witness you're going to call?

2 MR. RIVERO: Investigator Brashears.

3 CHAIRPERSON ANDERSON: I'm sorry. I
4 apologize. All right, what's the concern, sir?

5 MR. DUGGAN: Well, obviously we have our
6 witnesses sitting outside.

7 CHAIRPERSON ANDERSON: Hold on --

8 MR. DUGGAN: Oh, you were looking right
9 at me, I'm sorry.

10 CHAIRPERSON ANDERSON: No, but your
11 lawyer needs to speak so --

12 MR. BIANCO: I believe the concern
13 expressed by Mr. Duggan is that the witness was
14 in the room during opening statements whereas our
15 witnesses are not in the room during opening
16 statements, and didn't have the benefit of
17 hearing each side present the laying of their
18 case out and it's not in conformity with the
19 spirit of the rule on witnesses as they were
20 sitting behind me I didn't notice investigator

1 Stewart was sitting in the room. The instruction
2 should have been that he not be sitting in the
3 room during opening statements.

4 CHAIRPERSON ANDERSON: All right. Do you
5 swear and affirm to tell the truth and nothing
6 but the truth?

7 MR. STEWART: I do.

8 CHAIRPERSON ANDERSON: Your witness.

9 MR. RIVERO: Thank you. Good morning.
10 Can you please state your name and spell your
11 last name for the record.

12 MR. STEWART: Craig Stewart. S-T-E-W-A-
13 R-T.

14 MR. RIVERO: Mr. Stewart, what is your
15 occupation?

16 MR. STEWART: I'm the supervisory
17 investigator.

18 MR. RIVERO: And for whom are you the
19 supervisory investigator?

20 MR. STEWART: Alcoholic Beverage

1 Regulation Administration.

2 MR. RIVERO: And how long have you been
3 employed at ABRA?

4 MR. STEWART: Over nine years.

5 MR. RIVERO: What are your duties as a
6 supervisory investigator?

7 MR. STEWART: I supervise a team of
8 investigators that conduct inspections and
9 investigations in the District of Columbia at
10 licensed establishments.

11 MR. RIVERO: Thank you. Are you familiar
12 with the establishment known as Madam's Organ?

13 MR. STEWART: Yes, sir.

14 MR. RIVERO: And how are you familiar?

15 MR. STEWART: As an ABRA investigator
16 I've had numerous occasions to visit it and
17 inspect the establishment over the years. On
18 this particular occasion the reason that we're
19 here today, I had an occasion to respond to an
20 MPD complaint about noise from the establishment.

1 CHAIRPERSON ANDERSON: Hold on one
2 minute, please. Mr. Bianco, how many witnesses
3 do you have - you are calling today?

4 MR. BIANCO: Five witnesses, sir.

5 CHAIRPERSON ANDERSON: And outside of the
6 licensee, are any of those witnesses in the room?

7 MR. BIANCO: No, sir.

8 CHAIRPERSON ANDERSON: Okay, fine. Okay,
9 I'm sorry, go ahead. Someone did walk in and I
10 wasn't sure if he was a witness so.

11 MR. BIANCO: Not one of our witnesses.

12 CHAIRPERSON ANDERSON: Go ahead, sir.

13 MR. RIVERO: May I continue?

14 CHAIRPERSON ANDERSON: Yes.

15 MR. RIVERO: Okay. So, you indicated
16 that you had occasion to go by Madam's Organ
17 because you were responding to an MPD complaint.

18 MR. STEWART: Yes, sir.

19 MR. RIVERO: What was that complaint?

20 MR. STEWART: We were in the area

1 monitoring Madam's Organ and Sergeant Rooney from
2 MPD approached us and stated that they had been
3 receiving complaints of noise from Madam's Organ.

4 MR. RIVERO: Okay, and who else, if
5 anyone, accompanied you the evening in question?

6 MR. STEWART: Sergeant Mark -- excuse me,
7 investigator Mark Brashears and investigator
8 Torren Fox.

9 MR. RIVERO: Okay, and all right. So,
10 what did you do in response to Sergeant Rooney's
11 statement?

12 MR. STEWART: We proceeded to Madam's
13 Organ.

14 MR. RIVERO: Okay, and what was the date
15 and time of your visit?

16 MR. STEWART: I believe it was September
17 5th, approximately 1:40 a.m.

18 MR. RIVERO: Okay and what did you
19 observe as you approached the establishment?

20 MR. STEWART: As we were walking up the

1 sidewalk I observed a tall white male and a black
2 male standing directly on the first step to the
3 entrance to Madam's Organ. As we approached, the
4 white male stated in his radio, "ABRA's here."

5 MR. RIVERO: Okay, and what did you
6 observe the other person doing? You said there
7 were two people there.

8 MR. STEWART: Yes, the black male, he was
9 -- he was just standing -- I believe he was
10 checking IDs.

11 MR. RIVERO: Okay. And then, what
12 happened when you arrived at the front of the
13 establishment? As soon as we approached I had my
14 badge available, I showed it to the white male, I
15 told him that we were here to see the ABC manager
16 or owner, and that we were going to come in and
17 do an inspection.

18 MR. RIVERO: Okay. And what was that
19 person's response to your statement?

20 MR. STEWART: He stated, "you have to

1 wait right here and we will get the manager for
2 you."

3 MR. RIVERO: Okay, and what was your
4 response when he said he would get the manager?

5 MR. STEWART: I explained to him that he
6 couldn't delay or impede us and that we were
7 going in to do an inspection.

8 MR. RIVERO: Okay, and what was the
9 employee's, or this person's, reaction to that
10 statement?

11 MR. STEWART: At that point he says, "no,
12 I'm going to get the manager for you."

13 MR. RIVERO: And what happened next?

14 MR. STEWART: Again I reiterated that he
15 couldn't impede us or delay us and I took a step
16 to my right to go around him and step to the
17 doorway.

18 MR. RIVERO: When you say you took a step
19 to the right to go around him, where was he?

20 MR. STEWART: He was directly in front of

1 me.

2 MR. RIVERO: Okay. What happened after
3 that?

4 MR. STEWART: When I stepped to my right
5 he stepped to his left and almost completely
6 blocked the doorway entering the establishment.
7 I took a few more steps to my right, squeezed
8 around him, at which point we were in the
9 vestibule area. Once we were in the vestibule,
10 he is significantly taller than me, he stepped to
11 his left and it was pretty much a standoff where
12 I was trying to squeeze around him. I again told
13 him, that you can't impede me, you need to move,
14 that we're here to do an inspection, and he was
15 like, "no you're going to have to wait, I'm not
16 going to move, and literally we were at chest --
17 well not chest to chest, but he was pretty much
18 leaning down on me because he's significantly
19 taller. And he was pushing against me, against
20 the wall.

1 MR. RIVERO: Okay, were you able to walk
2 forward?

3 MR. STEWART: Yes, with resistance,
4 absolutely.

5 MR. RIVERO: Okay, and how far did you
6 go?

7 MR. STEWART: Approximately 10 feet
8 through the vestibule area and, again, the entire
9 time he was pushing back.

10 MR. RIVERO: Okay. When did you stop
11 walking?

12 MR. STEWART: Well, once you get through
13 the vestibule it opens up into the main floor
14 area where there's a band to your right and the
15 bar to your right. So, as soon as I squeezed
16 past, I stepped to my right.

17 MR. RIVERO: Okay. When you stepped to
18 your right what did you observe?

19 MR. STEWART: A large crowd of people.

20 MR. RIVERO: Right. Where were

1 investigators Brashears and Fox during this time,
2 if you know?

3 MR. STEWART: Directly behind me.

4 MR. RIVERO: Okay. Did you see anybody
5 behind Brashears and Fox?

6 MR. STEWART: Not once we got inside, no
7 sir.

8 MR. RIVERO: Okay. And what happened
9 then after you entered the room?

10 MR. STEWART: Almost immediately once we
11 were in the room I encountered an ABC manager, a
12 black female, who identified herself.

13 MR. RIVERO: Okay, and what was your
14 interaction with this individual?

15 MR. STEWART: Again, I identified myself
16 as an ABRA investigator, I explained to her why
17 we were there, but more importantly I explained
18 to her what had just happened with her security
19 person, the doorman, where he impeded my you know
20 and pretty much physically impeded me from coming

1 in to the establishment.

2 MR. RIVERO: What was her response?

3 MR. STEWART: She immediately said, "oh,
4 I'm so sorry, they're not supposed to do that."

5 MR. RIVERO: And then what happened after
6 that?

7 MR. STEWART: Again, I explained our
8 reason for being there was that first there was a
9 noise complaint and then two there were issues
10 where people were saying there was an
11 overcrowding issue and that we were going to
12 count the patrons inside.

13 MR. RIVERO: Okay, and then what
14 happened?

15 MR. STEWART: I told investigator
16 Brashears and investigator Fox to go up to the
17 second floor to count and that me and the ABC
18 manager proceeded on the first level, and I did a
19 count.

20 MR. RIVERO: Okay. What happened after

1 the count?

2 MR. STEWART: Once we got the count we
3 met back, I think it was on the first level, and
4 investigators Brashears and Fox and myself met,
5 we compared numbers and we came up with a count
6 of approximately 150-160 patrons.

7 MR. RIVERO: Okay. After you did that,
8 then what took place?

9 MR. STEWART: I notified the ABC manager,
10 she was standing directly next to me and I told
11 her what their count was, that it exceeded what
12 was on the license, and we proceeded to walk out
13 front.

14 MR. RIVERO: Who's "we" that walked out?

15 MR. STEWART: Investigator Fox,
16 investigator Brashears and the ABC manager.

17 MR. RIVERO: And you also walked out.

18 MR. STEWART: Yes, sir.

19 MR. RIVERO: Okay. And then, what
20 happened when you got to the front?

1 MR. STEWART: Okay, as I walked out the
2 front I saw the black male that was standing at
3 the door, the other doorman, to my right. We got
4 out on the sidewalk, again I explained to Ms. --
5 I'm sorry, I don't remember her name, but the ABC
6 manager and told her again what happened cannot
7 happen, you cannot treat our investigators the
8 way that I was treated. They cannot impede us in
9 any way. She apologized profusely. She said,
10 "I'm so sorry, I'm so sorry".

11 While I was talking to her the gentleman
12 who initially impeded me, the tall, white
13 gentleman, approached me. He says, "sir, I'm
14 sorry," he says, "I didn't mean it, I'm really
15 sorry."

16 MR. RIVERO: Okay.

17 MR. STEWART: At that point Sergeant
18 Rooney and the MPD team were out there. I
19 explained to them what had just occurred and
20 asked them could they identify the tall, white

1 gentleman for me by the identification. One of
2 the police officers went to him, got his
3 identification. I guess they took his
4 information down and provided it to us, at which
5 point the gentleman, once they gave him his ID
6 back, he again walked over to me, extended his
7 hand to try to shake my hand at which point I
8 didn't -- I refused to shake his hand.

9 MR. RIVERO: Okay. What happened after
10 that interaction?

11 MR. STEWART: We left, sir.

12 MR. RIVERO: What do you mean by "we
13 left"?

14 MR. STEWART: Investigator Brashears,
15 investigator Fox and myself, we continued
16 monitoring Adams Morgan.

17 MR. RIVERO: No further questions at this
18 time of the witness.

19 CHAIRPERSON ANDERSON: Mr. Bianco, do you
20 wish to cross examine the witness?

1 MR. BIANCO: I do. Investigator Stewart,
2 you stated that you were in Adams Morgan, that
3 you were monitoring, am I correct about that?

4 MR. STEWART: Yes, sir.

5 MR. BIANCO: Okay. As a matter of
6 routine, as a supervisory investigatory do you
7 routinely conduct routine inspections with --

8 CHAIRPERSON ANDERSON: Mr. Bianco, could
9 you speak up?

10 MR. BIANCO: Do you normally conduct
11 routine monitoring with your investigators?

12 MR. STEWART: Yes, sir.

13 MR. BIANCO: How often do you do that?

14 MR. STEWART: Routinely.

15 MR. BIANCO: Weekly? Daily?

16 MR. STEWART: I'd say two or three times
17 a week.

18 MR. BIANCO: and do you have a team of
19 investigators that you work with specifically, or
20 do you work with all investigators in the agency.

1 MR. STEWART: I have a team.

2 MR. BIANCO: And who's your team?

3 MR. STEWART: Do you want me to name them
4 specifically?

5 MR. BIANCO: How many are there?

6 MR. STEWART: There's approximately six.

7 MR. BIANCO: Six. Yes, please name them.

8 MR. STEWART: Brashears, Suero, Cullings,
9 Townsend --

10 MR. RIVERO: I'm going to go ahead and
11 object at this time because I don't know where
12 this kind of questioning is going. It's not
13 relevant to the incident that is in question.
14 I'm trying to give some latitude but I want to go
15 ahead and lodge my objection for the record just
16 in case.

17 CHAIRPERSON ANDERSON: All right, it's
18 overruled at the moment, I need to give him some
19 latitude because I don't know where he's going so
20 I just have to -- all right.

1 MR. STEWART: Peru I think is the last
2 one. I think I named six.

3 MR. BIANCO: Okay. And it's your
4 testimony that the complaint that you received
5 was a verbal one from MPD Sergeant Rooney?

6 MR. STEWART: Yes, sir.

7 MR. BIANCO: Did he tell you or did he
8 tell investigator Brashears or Fox?

9 MR. STEWART: We were all standing
10 together.

11 MR. BIANCO: Okay, and how did you come
12 into contact with Sergeant Rooney.

13 MR. STEWART: As part of our monitoring
14 when we are in the area we always speak with the
15 MPD sergeant that's in charge.

16 MR. BIANCO: So you sought them out or
17 they sought you out?

18 MR. STEWART: I'm not sure which one it
19 was.

20 MR. BIANCO: And where did this

1 conversation take place?

2 MR. STEWART: Directly in the middle of
3 18th Street. I believe it was in front of -- I
4 can't think of the name of the establishment, but
5 we were in the street, right in the median area.

6 MR. BIANCO: Did you ever receive some type of
7 written indication of this noise complaint from
8 the MPD?

9 MR. STEWART: No, sir.

10 MR. BIANCO: When you get a noise
11 complaint as a matter of general course what's
12 the first thing that you do when you get to the
13 establishment?

14 MR. STEWART: Well, I rarely respond to
15 noise complaints. That's not the reason why I
16 was out there on that occasion. Normally, I
17 carry the hotline, so normally when I get a noise
18 complaint I take down the information and I send
19 an investigator to investigate.

20 MR. BIANCO: Why didn't you do that in

1 this particular case?

2 MR. STEWART: I was there. I didn't have
3 to send an investigator, I was there.

4 MR. BIANCO: So, when you get a noise
5 complaint in the situation as the one you're in,
6 what's typically the first thing you do with the
7 establishment?

8 MR. STEWART: Identify myself and tell
9 them why I'm there.

10 MR. BIANCO: Okay. And did you do that
11 in this particular case?

12 MR. STEWART: Yes.

13 MR. BIANCO: You said, "I'm here for a
14 noise complaint"?

15 MR. STEWART: I said -- I identified
16 myself, I told them that I need to speak to an
17 ABC manager or owner. Once I encountered the ABC
18 manager or owner, that's when I'll explain why
19 I'm there. I'm not going to tell the door
20 manager, who is not an ABC agent.

1 MR. BIANCO: When you're monitoring for
2 noise do you have a need to enter the
3 establishment or do you monitor from the outside?

4 MR. STEWART: We have to enter.

5 MR. BIANCO: Now, isn't a violation for
6 noise determined from the noise you can hear from
7 outside of the establishment?

8 MR. STEWART: No, sir.

9 MR. BIANCO: That's not accurate?

10 MR. STEWART: No, sir. Most of the time
11 when we get noise complaints they usually come
12 from a citizen and the first thing the
13 investigator would do is go to the citizen's
14 residence to actually see if they can hear the
15 noise. So, and they have to go inside the
16 residence, so that's the first thing they would
17 do. Secondly they would try to identify that
18 it's actually coming from the place they are
19 complaining about. Once that's established then
20 the investigator goes into the establishment and

1 says "we can hear your noise inside of a
2 resident's house."

3 MR. BIANCO: And don't you determine the
4 source of the noise by first standing outside the
5 establishment and monitoring?

6 MR. STEWART: No, sir.

7 MR. BIANCO: Now, in your testimony you
8 made a statement that I would like you to clarify
9 for me. You testified that you had your badge
10 available. What does that mean?

11 MR. STEWART: I showed the gentleman my
12 badge, sir.

13 MR. BIANCO: So you took the -- where
14 were you keeping your badge?

15 MR. STEWART: I believe my badge was on
16 my neck on a chain.

17 MR. BIANCO: It was around your neck on a
18 chain so it was --

19 MR. STEWART: Yes, sir.

20 MR. BIANCO: -- displayed on your chest

1 then.

2 MR. STEWART: Yes, sir.

3 MR. BIANCO: Now, also in your testimony
4 you described an exchange that you had with Mr.
5 Carr, the door person at Madam's Organ, in which
6 you allege he said "you have to wait right here"
7 or words to that effect. Is that correct?

8 MR. STEWART: Yes, sir.

9 MR. BIANCO: Okay. How long did that
10 exchange take?

11 MR. STEWART: For him to say "you got to
12 wait right here"?

13 MR. BIANCO: Yes.

14 MR. STEWART: I guess was that a second
15 or two.

16 MR. BIANCO: So, there was no reply from
17 you?

18 MR. STEWART: Yes, I did reply.

19 MR. BIANCO: And your reply was --

20 MR. STEWART: That we're not going to

1 wait, we don't have to wait, we don't have to be
2 delayed.

3 MR. BIANCO: Okay. And how long did that
4 take? About another second?

5 MR. STEWART: A couple of seconds, yes
6 sir.

7 MR. BIANCO: And -- so after this back
8 and forth that took a couple of seconds you then
9 stepped aside and tried to walk past him?

10 MR. STEWART: Yes, sir.

11 MR. BIANCO: And it's your testimony that
12 he again stepped in your way and impeded your
13 progress.

14 MR. STEWART: Yes, sir.

15 MR. BIANCO: Okay. Was the door to the
16 establishment open or closed?

17 MR. STEWART: I believe that door was
18 open, the doorway.

19 MR. RIVERO: I'm going to have to object.
20 The witness testified it was a vestibule, it

1 wasn't clear if there were multiple doors, or if
2 the question addresses the actual front door of
3 the establishment.

4 MR. BIANCO: The question was very clear.
5 His prior testimony doesn't really have a heck of
6 a lot to do with my question, which is whether
7 the door was opened or closed. There's nothing
8 really confusing about it, it's very
9 straightforward and appropriate in the situation.

10 MR. RIVERO: Are we talking about the
11 front door? That's fine.

12 CHAIRPERSON ANDERSON: Okay, I guess
13 you're withdrawing your objection?

14 MR. RIVERO: The clarification's been
15 made that it's the front door.

16 CHAIRPERSON ANDERSON: Okay. Go ahead.

17 MR. BIANCO: So it's your testimony that
18 the front door was open.

19 MR. STEWART: I believe it was, I don't
20 recall opening it myself.

1 MR. BIANCO: So, I'm sorry. You don't
2 recall opening it yourself?

3 MR. STEWART: That's correct.

4 MR. BIANCO: Do you recall Mr. Carr
5 opening it for you?

6 MR. STEWART: No sir.

7 MR. BIANCO: Do you recall Mr. Carr
8 holding it -- holding the door open with his body
9 for you?

10 MR. STEWART: I believe if he was in the
11 doorway he was blocking the doorway, he wasn't
12 holding the door for me.

13 MR. BIANCO: Now, you testified that as
14 you moved to your right he moved to his left --

15 MR. STEWART: Yes, sir.

16 MR. BIANCO: -- to block you from coming
17 in, correct?

18 MR. STEWART: Yes, sir.

19 MR. BIANCO: Was he backing up as he was
20 doing that?

1 MR. STEWART: No.

2 MR. BIANCO: Okay. Were you pushing him
3 backwards?

4 MR. STEWART: No, sir.

5 MR. BIANCO: Okay. So, how did you get
6 from outside of the front doorway into the
7 vestibule area?

8 MR. STEWART: Initially?

9 MR. BIANCO: Yes.

10 MR. STEWART: It was a standoff. I
11 stepped to my right, he stepped to his left, do
12 you want me to -- I can continue from there.

13 MR. BIANCO: One step at a time.

14 MR. STEWART: That's what I was doing.

15 MR. BIANCO: So you step to your right
16 and he steps to his left and there's a standoff.
17 How long does the standoff take?

18 MR. STEWART: Again, a second long enough
19 for me to tell him again that he could not impede
20 me from coming in.

1 MR. BIANCO: So, you told him a second
2 time you can't impede -- did he have a response
3 to that?

4 MR. STEWART: He said "you need to wait;
5 I'm going to get a manager. A manager's coming."

6 MR. BIANCO: Okay, and after this one or
7 two-second standoff, what's the next thing that
8 happened.

9 MR. STEWART: Again, I tried to step
10 around him. At this point he made physical
11 contact with his body leaning into me, almost
12 squeezing me up against the wall to my right.

13 MR. BIANCO: So, did he take another step
14 to his left or did he lean over you?

15 MR. STEWART: He stepped to his left and
16 he was leaning on me.

17 MR. BIANCO: So, now you take a second
18 step to your right and he takes a second step to
19 his left and leans on top of you. What part of
20 his body was coming into contact with yours?

1 MR. STEWART: He's a very large, tall
2 gentleman so I would say his chest, stomach area
3 was on my shoulder, leaning down on me.

4 MR. BIANCO: And at that point did he
5 begin walking backwards.

6 MR. STEWART: Yes, we -- yes he did.

7 MR. BIANCO: Were you pushing him
8 backwards?

9 MR. STEWART: He was pushing me forward
10 trying to push me forward and I was trying to
11 squeeze around him.

12 MR. BIANCO: And you eventually made it
13 into the vestibule area inside the front door?

14 MR. STEWART: Eventually.

15 MR. BIANCO: How long did it take for you
16 to get from the outside of the front door into
17 the vestibule area.

18 MR. STEWART: I would say the entire
19 encounter was approximately 10-15 seconds from
20 the time he first said I had to wait for a time

1 for us to get through the vestibule.

2 MR. BIANCO: So from beginning to end 10-
3 15 seconds for you to get from the front to the
4 inside of the establishment.

5 MR. STEWART: Yes, sir.

6 MR. BIANCO: Do you know how big this
7 vestibule area is?

8 MR. STEWART: I'd say 8 to 10 feet and
9 that's not including the front porch area which
10 is probably another 5 feet. So, from the front
11 entry door to the inside of the establishment,
12 just the vestibule area, 8 to 10 feet is what
13 your testimony is?

14 MR. STEWART: Yes, sir, I believe so.

15 MR. BIANCO: Okay, and then an additional
16 5 feet for the front porch to the street.

17 MR. STEWART: Yes, sir, that's what I
18 believe.

19 MR. BIANCO: Did you tell him at any
20 point to get his hands off of you?

1 MR. STEWART: He didn't have his hands on
2 me.

3 MR. BIANCO: Okay, I'm sorry. Did you
4 tell him at any point to stop touching you?

5 MR. STEWART: Yes.

6 MR. BIANCO: Are those the words you
7 used, "stop touching me?"

8 MR. STEWART: I said, "get off of me."

9 MR. BIANCO: "Get off" of you.

10 MR. STEWART: Yes.

11 MR. BIANCO: And it's your testimony that
12 Fox and Brashears were directly behind you?

13 MR. STEWART: Yes.

14 MR. BIANCO: Are you aware whether or not
15 they alerted the police at the point Mr. Carr was
16 touching you?

17 MR. STEWART: I'm not aware of that.

18 MR. BIANCO: Did either Fox or Brashears
19 intervene in this back and forth between you and
20 Mr. Carr?

1 MR. STEWART: Not at that time, no.

2 There were comments made afterwards where they
3 thought they were going to have to intervene.

4 MR. BIANCO: Did they follow you into the
5 building or did they remain outside, if you know?

6 MR. STEWART: They followed me inside.

7 MR. BIANCO: When you got -- when you
8 made it through the vestibule of the main floor,
9 into the main floor of the establishment, you
10 testify that there was a band to your right when
11 you got inside.

12 MR. STEWART: I believe so.

13 MR. BIANCO: Okay. And at that point
14 when you made it through the vestibule and into
15 the main area where the band was to your right,
16 was Mr. Carr still in front of you?

17 MR. STEWART: He was directly to my left.

18 MR. BIANCO: Was he directly to your left
19 because you had stepped around him or because he
20 moved?

1 MR. STEWART: Because I stepped around
2 him.

3 MR. BIANCO: So, he was impeding you as
4 you came through the vestibule and then you
5 stepped to your right and he did not take a
6 corresponding step to his left?

7 MR. STEWART: That's correct.

8 MR. BIANCO: He allowed you to pass at
9 that point when you were inside.

10 MR. STEWART: That's correct.

11 MR. BIANCO: And prior to you taking that
12 last step to your right to get around him, was he
13 still making contact with your body?

14 MR. STEWART: Yes.

15 MR. BIANCO: And it was still his chest,
16 stomach area on your shoulder?

17 MR. STEWART: Yes.

18 MR. BIANCO: Which shoulder?

19 MR. STEWART: Left shoulder.

20 MR. BIANCO: You next testified that

1 people were saying there was an overcrowding
2 issue when you were inside. What people were
3 saying that?

4 MR. STEWART: We've had several
5 complaints and I believe there were several
6 investigations and I know that investigator
7 Brashears had previously had a case there.

8 MR. BIANCO: So, when you said people
9 were saying there was an overcrowding issue you
10 were referring to previous investigations of this
11 establishment?

12 MR. STEWART: And MPD, yes sir.

13 MR. BIANCO: You were?

14 MR. STEWART: And DCIA official.

15 MR. BIANCO: Okay, let's take those one
16 at a time. When was Brashears' investigation of
17 this alleged overcrowding issue?

18 MR. STEWART: I'm not sure. It was prior
19 to that. He was working a noise task force
20 issue.

1 MR. BIANCO: Is it possible that it was a
2 day before that, on September the 3rd?

3 MR. STEWART: I'm not sure.

4 MR. BIANCO: And how about MPD? Had they
5 made a complaint to you about overcrowding that
6 night along with the noise complaint?

7 MR. STEWART: No, sir.

8 MR. BIANCO: Okay, so how did you become
9 aware that MPD had some kind of issue with
10 overcrowding?

11 MR. STEWART: Again prior investigators
12 that were monitoring the area and conversations
13 with MPD.

14 MR. BIANCO: Any written complaints or
15 any e-mails?

16 MR. STEWART: No, not that I'm aware of.

17 MR. BIANCO: So, it was all based on
18 conversations that you had with MPD.

19 MR. STEWART: Not that I had, that other
20 investigators have had with them.

1 MR. BIANCO: So, other investigators
2 received complaints from MPD that they then
3 passed along to you as the supervisor?

4 MR. STEWART: Yes.

5 MR. BIANCO: And the third one you
6 mentioned -- and you're not sure when those were.

7 MR. STEWART: That's correct.

8 MR. BIANCO: Okay, and the third one you
9 mentioned was DCRA. How did you become aware of
10 DCRA?

11 MR. STEWART: I believe there was a noise
12 complaint where we would, ABRA and DCRA have
13 partnered together and one of the DCRA officials,
14 along with one of the investigators, entered
15 Madam's Organ, reviewed the documentation of the
16 City and the ABRA license and determined that the
17 establishment was overcrowded.

18 MR. BIANCO: And do you know when that
19 was?

20 MR. STEWART: No, sir.

1 MR. BIANCO: To your knowledge, were MPD
2 issues, DCRA issues and Brashears' own
3 investigation conducted within the time frame
4 between May and September of 2015?

5 MR. STEWART: Possibly, I'm not sure.

6 MR. BIANCO: Is it likely?

7 MR. STEWART: Possibly.

8 MR. BIANCO: Had you received any
9 instructions prior to going out on your routine
10 monitoring that evening with regards to
11 occupancy issues at Madam's Organ.

12 MR. STEWART: No, sir.

13 MR. BIANCO: Now, did you have any
14 contact with the fire marshal's office regarding
15 the capacity?

16 MR. STEWART: No, sir.

17 MR. BIANCO: Now, if I'm correct, if my
18 notes are correct about your testimony, you next
19 testified that once you made it into the
20 establishment you had a conversation with Keisha

1 Hamilton, correct?

2 MR. STEWART: I believe that's her name.

3 MR. BIANCO: Okay. You had a
4 conversation with the African-American woman who
5 was the manager on duty that night.

6 MR. STEWART: Yes, sir.

7 MR. BIANCO: Okay. And immediately
8 following that conversation you performed a count
9 --

10 MR. STEWART: Yes.

11 MR. BIANCO: -- of the establishment?

12 MR. STEWART: Yes.

13 MR. BIANCO: So, that consisted of
14 counting all of the patrons on all four floors?

15 MR. STEWART: Yes.

16 MR. BIANCO: Okay.

17 MR. STEWART: Well, no, I believe it was
18 two floors because once we exceeded what we saw
19 on the license, I knew not to count any more.

20 MR. BIANCO: And you performed a count

1 on the first floor and mezzanine level?

2 MR. STEWART: I believe so.

3 MR. BIANCO: Okay. And Fox and Brashears
4 performed a count on the second floor?

5 MR. STEWART: Yes.

6 MR. BIANCO: Okay. So, if they were on
7 the second floor and you were on the first floor
8 how did you know that the number on the license
9 had been exceeded?

10 MR. STEWART: Because I believe I counted
11 that on the first level or it was close to it and
12 I already knew the place was crowded, you could
13 barely move inside, so it only begged to reason
14 that there were more people on the upper levels
15 and when investigator Fox and Brashears came down
16 they confirmed it.

17 MR. BIANCO: So, based on your count on
18 the first floor and mezzanine level you assumed
19 they were over their occupancy and you later
20 confirmed it.

1 MR. STEWART: Right.

2 MR. BIANCO: Okay. How long did it take
3 them to count the second floor?

4 MR. STEWART: I don't know. We were in
5 the establishment less than a minute -- less than
6 a minute, a minute and a half. I counted, I went
7 in, I counted, well sorry, I won't say that.
8 Approximately two minutes on the first floor for
9 me to walk from the front to the back to do a
10 cursory count. [Inaudible] and Brashears went
11 up the stairs, I met them at the top of the steps
12 I believe and they gave me a number.

13 MR. BIANCO: What number did they give
14 you if you recall?

15 MR. STEWART: I don't recall. We
16 exceeded 160 in total count between 150 and 160.

17 MR. BIANCO: And what did you do about
18 the noise issue that night?

19 MR. STEWART: We didn't have a noise
20 issue when we got there.

1 MR. BIANCO: So, you determined that
2 there wasn't --

3 MR. STEWART: After the incident with the
4 security and we counted I think I was pretty much
5 agitated and I just wanted to leave.

6 MR. BIANCO: So is it your testimony that
7 there was no noise issue or is it your testimony
8 that you were fed up and you left before making a
9 determination about the noise issue?

10 MR. STEWART: No, so when we arrived we
11 could hear the noise. I identified myself. We
12 went inside. I remembered investigator
13 Brashears had a case where there was crowding,
14 patron overcrowding, I remembered the MPD issues,
15 so we decided to count while we were in there.
16 Came back out, that was it, we left.

17 MR. BIANCO: Did you do a compliance
18 check of their licenses and other documents to
19 determine that they were over occupancy?

20 MR. STEWART: Investigator Brashears had

1 previously done one.

2 MR. BIANCO: Do you know when previously?

3 MR. STEWART: No, sir, but it was recent
4 enough that he didn't have to do another one.

5 MR. BIANCO: So, it was just a count that
6 you were doing while you were there.

7 MR. STEWART: Yes, sir.

8 MR. BIANCO: Of the first and second
9 floor. At the time you were present on the
10 evening -- I'm sorry, I guess it was the morning
11 of the 5th, the Saturday morning, the 5th, the
12 time you were there. Were you shown the court of
13 appeals decision from 2008 by any of the staff?

14 MR. STEWART: Mr. Duggan showed it to me
15 probably a dozen times so I'm familiar with that
16 and didn't need to see it that night.

17 MR. BIANCO: Okay. And, how has he shown
18 it to you? When did he show it to you a dozen
19 times?

20 MR. STEWART: Again, I've encountered Mr.

1 Duggan throughout the years and I've seen that
2 during inspections and his staff has shown it to
3 me.

4 MR. BIANCO: And of the dozens of times
5 that he showed it to you has it -- how many of
6 them were within the period between May and
7 September of 2015?

8 MR. STEWART: None.

9 MR. BIANCO: So, in what context did he
10 show it to you dozens of times?

11 MR. STEWART: During inspections. During
12 investigations.

13 MR. BIANCO: And during those inspections
14 or investigations were those inspections or
15 investigations related to occupancy?

16 MR. STEWART: Could be 251 issues, could
17 be other types of issues, settlement agreement
18 issues, variety.

19 MR. BIANCO: When you exited the premises
20 did you make a statement to any of the staff of

1 Madam's Organ that you were shutting them down
2 for occupancy?

3 MR. STEWART: I would never say anything
4 like that. We don't have the authority and as a
5 trainer I make sure our investigators never use
6 that term.

7 MR. BIANCO: Would it be bad if an
8 investigator said something like that? I'm
9 sorry, let me rephrase that, that was a little
10 vague. Would it be a breach of your protocol as
11 an investigator to make a comment like that?

12 MR. STEWART: That's an incorrect
13 statement and no one was ever trained to say
14 that.

15 MR. BIANCO: If Mr. Duggan showed you the
16 court of appeals decision from 2008 several
17 times, dozens of times, why is it that you are
18 continuing to pursue investigations of --

19 MR. RIVERO: I'm going to have to object
20 at this point, unfortunately, because this is not

1 an occupancy case, as the government has made
2 very clear, and we seem to be shifting into an
3 occupancy case. All of this line of questioning
4 is irrelevant and we should be focusing on the
5 government's charge.

6 CHAIRPERSON ANDERSON: Mr. Bianco?

7 MR. BIANCO: It's -- 1) It's in the
8 report; 2) it was inquired about on direct
9 examination; 3) it's relevant as to why he's
10 there in the first place.

11 MR. RIVERO: And the witness has already
12 testified enough about that.

13 MR. BIANCO: I agree, it's enough about
14 the occupancy.

15 MR. RIVERO: Is the testimony about
16 events that -- concerning a nonissue in the case
17 that took place prior to the date in question are
18 even more irrelevant.

19 CHAIRPERSON ANDERSON: The objection is
20 sustained. I agree.

1 MR. RIVERO: I'm trying to give latitude
2 but I can't anymore.

3 CHAIRPERSON ANDERSON: I agree, sir. I
4 mean, I was trying to figure out where we're --
5 since that's not a charge in this case I was
6 trying to figure out why were we going down this
7 road, so sustained. Move on, Mr. Bianco.

8 MR. BIANCO: Did you participate in the
9 drafting of a case report on this particular
10 issue?

11 MR. STEWART: No, sir.

12 MR. BIANCO: Did you provide any
13 information to any other investigator who may
14 have drafted a case report on this particular
15 issue?

16 MR. STEWART: I'm sorry, I do not
17 understand what you're --

18 MR. BIANCO: Did you provide any
19 information to another investigator for the
20 purpose of preparation of a case report?

1 MR. STEWART: Other than to say what
2 occurred? The statements that I made? That's
3 it.

4 MR. BIANCO: Who did you tell?

5 MR. STEWART: Investigator Brashears.

6 MR. BIANCO: When did that conversation
7 take place?

8 MR. STEWART: I guess when he was
9 drafting the report.

10 MR. BIANCO: And when was that?

11 MR. STEWART: The day that signature is
12 on that, sir, or the day prior.

13 MR. BIANCO: Is there a reason why you
14 didn't sign the report?

15 MR. STEWART: It's the transmittal phase
16 that we have - you'll rarely see my name on a
17 report unless I'm the last person to review it.

18 MR. BIANCO: Well, assuming your name is
19 on a report, would there be a reason why you
20 wouldn't sign and date it?

1 MR. STEWART: If my name's in a report or
2 on a report?

3 MR. BIANCO: On a report. As in,
4 reviewed by, printed name, C. Stewart, signature
5 and date blank. Is there a reason why you would
6 not sign it?

7 MR. STEWART: Yes, I just told you
8 there's a transmittal phase. The last person
9 that sees it or reviews it is chief of
10 enforcement. My job as the investigator is I
11 review it for errors and I pass it on back to the
12 investigator. The investigator then, once I make
13 my reviews, or review it, That investigator turns
14 it in to the chief of enforcement.

15 MR. BIANCO: Did you make any edits in
16 this particular case?

17 MR. STEWART: I'm sure, if there were any
18 errors, yes sir.

19 MR. BIANCO: Okay, and do you recall what
20 any errors might have been in this particular

1 case?

2 MR. STEWART: No, sir.

3 MR. BIANCO: If I showed you the report
4 would you be able to go through it and tell me
5 what changes you made?

6 MR. STEWART: I didn't change anything.
7 If it was an error, it was going to be
8 grammatical, make sure the license number is
9 correct, address is correct, no content is
10 changed. We don't change any contents as
11 supervisors.

12 MR. BIANCO: And you didn't change any
13 content in this particular report?

14 MR. STEWART: No, sir.

15 MR. BIANCO: Did you take any photographs
16 when you were inside the premises?

17 MR. STEWART: No, sir.

18 MR. BIANCO: Do you know if any of the
19 other investigators took photographs as part of
20 your report?

1 MR. STEWART: I do not know.

2 MR. BIANCO: Thank you, I don't have
3 anything further.

4 CHAIRPERSON ANDERSON: Do you have any
5 questions by any board members? Yes, Mr.
6 Silverstein.

7 MR. SILVERSTEIN: ?? do you need a warrant
8 or any special reason to enter a licensed
9 establishment?

10 MR. STEWART: No, sir.

11 MR. SILVERSTEIN: Do you have a right to
12 enter a licensed establishment as an
13 investigator?

14 MR. STEWART: Yes, sir, I believe title
15 25 gives us that authority.

16 MR. SILVERSTEIN: And is part of your
17 normal duties as an investigator?

18 MR. STEWART: Yes, sir.

19 MR. SILVERSTEIN: In your work do you
20 need, or is there a need, for probable cause to

1 enter an establishment and conduct an
2 investigation or inspection?

3 MR. STEWART: No, sir.

4 MR. SILVERSTEIN: These are a matter of
5 course and they are your responsibilities to do?

6 MR. STEWART: Yes, sir.

7 MR. SILVERSTEIN: [inaudible Audio 3-
8 28:57]

9 MR. STEWART: Yes, sir.

10 MR. SILVERSTEIN: You try.

11 MR. STEWART: Yes, sir.

12 MR. SILVERSTEIN: In this particular case,
13 regardless of why you were going, which doesn't
14 matter, I want to clear up some ?? first. Were
15 you, in fact, impeded when you attempted to enter
16 this establishment?

17 MR. STEWART: Absolutely.

18 MR. SILVERSTEIN: Were hands laid on you?

19 MR. STEWART: His body -- I think he was
20 trying to intimidate and impose his size on me.

1 MR. SILVERSTEIN: Did he attempt to stop
2 or delay you from entering the establishment to
3 conduct your investigation?

4 MR. STEWART: Yes, sir.

5 MR. SILVERSTEIN: No further questions.

6 CHAIRPERSON ANDERSON: Any other -- Mr.
7 Short.

8 MR. SHORT: Good afternoon.

9 MR. STEWART: Good afternoon, sir.

10 MR. SHORT: Investigator Stewart, do you
11 question did you do anything other than you would
12 normally do when you go to an establishment?

13 MR. STEWART: No, sir.

14 MR. SHORT: So it is your normal to wear
15 your badge on the exterior of your clothing? Is
16 that fair?

17 MR. STEWART: Especially when it's a
18 crowded area like Adams Morgan because we're
19 dressed in civilian clothes and we don't want
20 people to, I guess, take us for the normal group

1 crowds out there and it kind of gives us some air
2 of protection or authority to walk through the
3 crowds and, you know, say "excuse me" and they
4 normally recognize us as a badge and probably
5 assume that we're law enforcement of some sort.

6 MR. SHORT: And you say how many years
7 have you been employed by ABRA?

8 MR. STEWART: Almost ten.

9 MR. SHORT: So, in those ten years how
10 often do you go to 16th Street Adams Morgan area?

11 MR. STEWART: Oh, wow. Thousands.

12 MR. SHORT: Thousands.

13 MR. STEWART: Yes, sir.

14 MR. SHORT: So, most establishments know
15 of you or know you or are familiar with you?

16 MR. STEWART: Yes, sir.

17 MR. SHORT: And do they mainly give you
18 the respect due you as a D.C. government
19 official?

20 MR. STEWART: Yes, sir.

1 MR. SHORT: So, this evening in question,
2 when you were refused admittance to this
3 establishment, this was out of the norm.

4 MR. STEWART: Absolutely.

5 MR. SHORT: And you did what you are
6 required to do by law.

7 MR. STEWART: Yes, sir.

8 MR. SHORT: We thank you for that. Thank
9 you. That's all I have, Mr. Chair.

10 CHAIRPERSON ANDERSON: Ms. Miller.

11 MS. MILLER: I just wanted to ask you --
12 this establishment, there was one doorman that
13 was interfering with your entering, is that
14 right?

15 MR. STEWART: Yes, ma'am.

16 MS. MILLER: Had you ever met that
17 doorman before?

18 MR. STEWART: No ma'am.

19 MS. MILLER: Okay. And are you sure that
20 he saw your badge?

1 MR. STEWART: Absolutely. Again, as we
2 approached he announced our presence into the
3 radio. It was audible that we all looked at each
4 other like, "oh, they know who we are."

5 MS. MILLER: What did he say?

6 MR. STEWART: He said, "ABRA's here."

7 MS. MILLER: Oh, okay. And did he do
8 that into some walkie-talkie or cell phone or
9 what?

10 MR. STEWART: I believe it was a mic into
11 the gentleman next to him but, again, it was
12 audible enough that we all heard it.

13 MS. MILLER: Oh, okay. And did you hear
14 any response?

15 MR. STEWART: No, sir. No, ma'am, I'm
16 sorry.

17 MS. MILLER: Okay, that's all. Thank
18 you.

19 CHAIRPERSON ANDERSON: Mr. Alberti?

20 MR. ALBERTI: No, I have no questions,

1 thank you.

2 CHAIRPERSON ANDERSON: Do you have any
3 questions Mr. Rivero on the questions that were
4 asked by the board?

5 MR. RIVERO: None.

6 CHAIRPERSON ANDERSON: Mr. Bianco?

7 MR. BIANCO: Yes. You've been to this
8 establishment before?

9 MR. STEWART: Yes, sir.

10 MR. BIANCO: Ever had a problem getting
11 in there before?

12 MR. STEWART: No, sir.

13 MR. BIANCO: Thank you.

14 CHAIRPERSON ANDERSON: All right. You
15 can step down, Mr. Stewart.

16 MR. STEWART: Thank you.

17 CHAIRPERSON ANDERSON: Does the
18 government have another witness?

19 MR. RIVERO: The government will call
20 investigator Brashears. If he can be procured.

1 CHAIRPERSON ANDERSON: Has someone
2 alerted Mr. Brashears to give his testimony?

3 MR. SHORT: One of the investigators went
4 out to get him.

5 CHAIRPERSON ANDERSON: Okay, all right.
6 You can approach. You were called, you can
7 approach. Do you swear or affirm to tell the
8 truth and nothing but the truth?

9 MR. BRASHEARS: I do, sir.

10 CHAIRPERSON ANDERSON: Thank you. Your
11 witness.

12 MR. RIVERO: Good afternoon. Can you
13 please state your name and spell your last name
14 for the record?

15 MR. BRASHEARS: My name is Mark
16 Brashears. Last name is BRASHEARS.

17 MR. RIVERO: What is your occupation?

18 MR. BRASHEARS: I am an investigator for
19 the Alcoholic Beverage Regulation Administration.

20 MR. RIVERO: How long have you been in

1 that position?

2 MR. BRASHEARS: Approximately two and a
3 half years.

4 MR. RIVERO: What are your duties as an
5 investigator?

6 MR. BRASHEARS: ABRA investigators
7 conduct investigations and inspections of
8 licensed ABC establishments throughout the
9 District of Columbia.

10 MR. RIVERO: Okay. Are you familiar with
11 Madam's Organ, investigator?

12 MR. BRASHEARS: Yes, I am.

13 MR. RIVERO: And how are you familiar
14 with the establishment?

15 MR. BRASHEARS: Through visits for
16 regulatory inspections and routine monitoring at
17 Adams Morgan.

18 MR. RIVERO: Okay. And are you familiar
19 with the incidents that are the source of this
20 hearing?

1 MR. BRASHEARS: Yes, sir.

2 MR. RIVERO: And how so?

3 As far as the September 5th visit?

4 MR. RIVERO: Yes.

5 MR. BRASHEARS: Myself and supervisor
6 investigator Stewart and investigator Fox were
7 conducting monitoring in Adams Morgan. We were
8 notified from a police officer, police sergeant,
9 that there was noise emanating from the
10 establishment so we went over to check it out.

11 MR. RIVERO: Okay. So you were not
12 alone.

13 MR. BRASHEARS: That's correct.

14 MR. RIVERO: And you were accompanied by whom
15 again?

16 MR. BRASHEARS: Supervisor Craig Stewart
17 and investigator Torren Fox.

18 MR. RIVERO: Okay, and on what date and
19 time did you make that visit?

20 MR. BRASHEARS: That was the 5th of

1 September, 2015, at approximately 1:40 a.m.

2 MR. RIVERO: Okay. And what did you
3 approach as you -- what did you observe as you
4 approached the establishment?

5 MR. BRASHEARS: I could hear music coming
6 out of the establishment. There was a taller,
7 bearded individual in front of the establishment,
8 a white male, African-American male. They both
9 appeared as though they worked at the
10 establishment and I believe there were some
11 people waiting out front and some folks in the
12 sidewalk café out front.

13 MR. RIVERO: Okay. And what did you
14 observe -- we'll start with the first -- with the
15 African-American person? What did you observe
16 that person doing?

17 MR. BRASHEARS: I believe he might have
18 been checking I'd cards.

19 MR. RIVERO: Okay, and what did you
20 observe the other person doing?

1 MR. BRASHEARS: I believe he was working
2 maybe as door security.

3 MR. RIVERO: Okay. What happened when
4 you arrived at the establishment?

5 MR. BRASHEARS: As we walked up, the
6 individual with the -- taller individual with the
7 beard -- talked into like a microphone and said,
8 "ABRA's here."

9 MR. RIVERO: You could hear that?

10 MR. BRASHEARS: Yes, sir.

11 MR. RIVERO: Okay, what happened after
12 that?

13 MR. BRASHEARS: Supervisor Stewart
14 approached the man and we all had our badges
15 around our necks, and stated that he was an ABRA
16 investigator and that he wanted to go into the
17 establishment and needed to speak with an ABC
18 manager or owner.

19 MR. RIVERO: Okay, and what did you
20 observe the individual's response to be to

1 investigator Stewart?

2 MR. BRASHEARS: The individual with the
3 beard --

4 MR. RIVERO: Yeah.

5 MR. BRASHEARS: -- basically blocked the
6 door and said to wait, he was going to contact
7 the ABC manager.

8 MR. RIVERO: And what did you observe
9 happen after that?

10 MR. BRASHEARS: Supervisor Stewart kind
11 of held up his badge and said, "You know you
12 can't impede me, I'm here to inspect the
13 establishment." And he attempted to step I
14 believe kind of to the right to kind of step
15 around the individual and the individual stepped
16 in front of him.

17 MR. RIVERO: Okay. And what did you
18 observe happened after that?

19 MR. BRASHEARS: Supervisor Stewart once
20 again reiterated that he was an ABRA investigator

1 and told the individual "you cannot impede me, I
2 need to enter the establishment."

3 MR. RIVERO: Okay, and then what was the
4 reaction to that?

5 MR. BRASHEARS: The gentleman with the
6 beard continued to say "no, stop, wait" and as
7 supervisor Stewart continued to kind of step back
8 and forth to get past the individual, the man
9 with the beard, he kind of leaned in and they
10 pretty much were body to body and every time
11 Stewart tried to go one way or the other the
12 individual moved with him.

13 MR. RIVERO: Okay. And what did you
14 observe happen next?

15 MR. BRASHEARS: Well, as this was
16 happening basically we went from outside the
17 establishment through a door or kind of down a
18 hallway or like a vestibule --

19 MR. RIVERO: Okay.

20 MR. BRASHEARS: -- and as that was

1 happening the individual with the beard was
2 backing up but still leaning in so we eventually
3 made it through the entryway, through the
4 vestibule into kind of an open area.

5 MR. RIVERO: When you say "we," who do
6 you mean by that?

7 MR. BRASHEARS: Supervisor Stewart was in
8 front, I was behind him and investigator Fox was
9 behind me.

10 MR. RIVERO: Okay. So, where were you
11 going as you were observing investigator Stewart
12 make his way in?

13 MR. BRASHEARS: We were going through the
14 vestibule and my understanding was we were going
15 to meet hopefully an ABC manager or owner when we
16 got inside the establishment.

17 MR. RIVERO: You said you were behind
18 investigator Stewart?

19 MR. BRASHEARS: Yes, sir.

20 MR. RIVERO: About how far behind would

1 you say?

2 MR. BRASHEARS: A step or two.

3 MR. RIVERO: Okay. So, what happened
4 after what you just described?

5 MR. BRASHEARS: We got into the open
6 area. If I remember correctly you kind of go up
7 a set of stairs and the establishment opens up
8 and there's an area for like a band and open area
9 and a bar. The ABC manager approached and
10 identified herself to supervisor Stewart and I
11 believe in that area right there.

12 MR. RIVERO: Okay. And what happened
13 next?

14 MR. BRASHEARS: Supervisor Stewart
15 advised her that -- you know -- we had had a
16 complaint, I believe about noise or possibly
17 overcrowding, and he explained to her what had
18 transpired with the door, and the individual at
19 the door, and explained to her that as an ABRA
20 investigator we're not to be impeded, we should

1 be able to come in without delay. At that point
2 she said -- you know -- she apologized and said
3 that she would talk to the individual about it.

4 MR. RIVERO: Okay and what happened after
5 she said that?

6 MR. BRASHEARS: I believe he went, at
7 some point went back to his post.

8 MR. RIVERO: Who is "he?"

9 MR. BRASHEARS: The individual with the
10 beard.

11 MR. RIVERO: Okay.

12 MR. BRASHEARS: Myself and investigator
13 Fox went upstairs and did an inspection and did a
14 rough head count, and supervisor Stewart, from
15 what I understand, stayed with the ABC manager
16 downstairs and did a head count as well.

17 MR. RIVERO: Okay. And then what
18 happened after you and investigator Fox finished
19 that count?

20 MR. BRASHEARS: We met back up with

1 supervisor Stewart and I don't remember what the
2 individual count from myself or him, but I
3 remember the total being roughly 160 people in
4 the establishment.

5 MR. RIVERO: Okay. After you made that
6 determination what did you do next?

7 MR. BRASHEARS: I believe we went back
8 out, back outside, where supervisor Stewart
9 basically spoke with the ABC manager again.

10 MR. RIVERO: When you say "we went back
11 outside" who is "we"?

12 MR. BRASHEARS: Myself, supervisor
13 Stewart, investigator Fox and the ABC manager
14 that supervisor Stewart had been speaking with.

15 MR. RIVERO: Okay. And so you got
16 outside again and what were you doing?

17 MR. BRASHEARS: He explained to her the -
18 - basically that there was going to be a
19 violation for, you know, impeding us coming in
20 the establishment and, you know, possibly for the

1 overcrowding issue, and he pointed out the
2 individual with the beard and stated, "okay, this
3 was the individual who impeded us." At that
4 point she apologized again, said she would, you
5 know, talk with him, speak with the ownership,
6 and I believe at that point the man with the
7 beard, I think he tried to shake supervisor
8 Stewart's hand and said, you know, he apologized
9 or whatnot but I don't think they shook hands or
10 --

11 MR. RIVERO: Okay, all right. And what
12 happened after that?

13 MR. BRASHEARS: After that we left the --
14 departed the establishment and -- oh, I'm sorry.
15 At that point an individual from MPD came over
16 and basically took down the information and
17 produced an MPD 251 report.

18 MR. RIVERO: Okay, and then, so after you
19 met with the MPD there, what did you do next?

20 MR. BRASHEARS: If I recall correctly,

1 the individual took the information for the
2 report, gave me an MPD 251 CCN number and once
3 that was concluded, myself Supervisor Stewart and
4 investigator Fox continued monitoring at Adams
5 Morgan.

6 MR. RIVERO: Okay, thank you. No further
7 questions at this time of the witness.

8 CHAIRPERSON ANDERSON: Thank you. Mr.
9 Bianco?

10 MR. BIANCO: You know what? One second.
11 I'm going to hand you an exhibit that's marked
12 Exhibit #1 for identification by the government,
13 a copy of which has been provided to the ANC in
14 accordance with the board's rules. May I
15 approach the witness? Can you just identify what
16 that document is?

17 MR. BRASHEARS: This is an investigative
18 case report produced by myself for ABRA.

19 MR. BIANCO: Okay and this is the report
20 of this matter?

1 MR. BRASHEARS: Yes, sir, it is.

2 MR. BIANCO: Okay. I want you to just
3 take a moment to go through the report and make
4 sure that -- confirm it's a complete report.

5 MR. BRASHEARS: Yes, sir. It looks to be
6 complete.

7 MR. BIANCO: Thank you. So, this is
8 actually a copy, right?

9 MR. BRASHEARS: Yes, sir.

10 MR. BIANCO: It's not the original. This
11 is an accurate copy of your report?

12 MR. BRASHEARS: Yes, sir.

13 MR. BIANCO: Okay, the government will
14 move Government Exhibit #1 into evidence at this
15 time which is a copy of the investigator's
16 investigative report for this case.

17 MR. RIVERO: No objection.

18 CHAIRPERSON ANDERSON: So moved.

19

20 [Government Exhibit #1 moved into evidence.]

1 CHAIRPERSON ANDERSON: Mr. Bianco, your
2 witness.

3 MR. BIANCO: Thank you. Investigator
4 Brashears, let's stay with your exhibit. Do you
5 have a witness copy of it up there?

6 MR. RIVERO: No but I can provide one.

7 MR. BIANCO: On the first page under
8 details you indicate -- I'm sorry -- in the
9 summary section on the first page you indicate
10 that you made a determination that the doorman of
11 the establishment physically blocked the way of
12 an ABRA investigator based on the MPD 251 report
13 and observations made by ABRA investigators at
14 the establishment, right?

15 MR. BRASHEARS: That's correct.

16 MR. BIANCO: Okay. Why did you have to
17 rely on the 251 to make that determination if you
18 were actually there?

19 MR. BRASHEARS: Well, I didn't have to
20 rely on it, I basically -- basically, I was able

1 to myself and investigator Fox and supervisor
2 Stewart were able to recognize that it was a
3 violation. However, having had the situation on
4 the curb we notified the MPD and they created the
5 251.

6 MR. BIANCO: So the 251 was based on your
7 report, not some extrinsic source.

8 MR. BRASHEARS: It was -- from my
9 understanding, supervisor Stewart provided the
10 details of what occurred at Madam's Organ to the
11 police officer and he wrote the report subsequent
12 to that.

13 MR. BIANCO: Okay. Supervisor Stewart is
14 the one who had the conversation with MPD on the
15 street.

16 MR. BRASHEARS: Yes, sir.

17 MR. BIANCO: Okay. Who summoned the MPD?

18 MR. BRASHEARS: Well, initially when we
19 were in Adams Morgan the MPD contacted us, so we
20 were there because of that and then once

1 everything was over, supervisor Stewart said "can
2 you grab one of the MPD officers out of the
3 median there and ask them to come over?" And
4 that's what I did.

5 MR. BIANCO: Is there a reason why you
6 didn't summon the MPD when, as you testified, you
7 witnessed the doorman making physical contact
8 with investigator Stewart.

9 MR. BRASHEARS: Well, at that point we
10 were attempting to gain entry to the
11 establishment and basically in a situation like
12 that the goal is to get inside the establishment.
13 And even though there was some kind of physical -
14 - there was physical blocking and touching and
15 whatnot, at that point I didn't deem it
16 necessary.

17 MR. BIANCO: Did you not deem it
18 necessary because he was getting into the
19 establishment?

20 MR. BRASHEARS: I didn't feel that it had

1 risen to the point of an altercation. Supervisor
2 Stewart has been an investigator for quite a few
3 years and at that point we -- you know, we --
4 just assumed the individual would move aside and
5 let us go in.

6 MR. BIANCO: Did you approach Mr. Carr at
7 the front of the establishment with investigator
8 Stewart or behind him?

9 MR. BRASHEARS: Just for clarity, Mr.
10 Carr was the tall, bearded individual?

11 MR. BIANCO: Correct, the person you
12 identified --

13 MR. BRASHEARS: Identified in my report.
14 Okay. I believe I was standing beside supervisor
15 Stewart.

16 MR. BIANCO: You testified, I believe,
17 that Stewart had his badge displayed. Was that
18 something he reported to you or something that
19 you personally witnessed?

20 MR. BRASHEARS: It's something I

1 personally witnessed.

2 MR. BIANCO: So, you saw it around his
3 neck?

4 MR. BRASHEARS: Yes, sir.

5 MR. BIANCO: It was displayed and
6 visible?

7 MR. BRASHEARS: Yes, sir.

8 MR. BIANCO: How about him identifying
9 himself to Daniel Carr? How did he identify
10 himself?

11 MR. BRASHEARS: He, as I said, I believe
12 he held up his badge, it was on a chain around
13 his neck, held it up and stated, "I'm supervisor
14 investigator Stewart from ABRA."

15 MR. BIANCO: You state in your report
16 that supervisor Stewart was met by ABC manager,
17 Keisha Hamilton. Where did that meeting occur?

18 MR. BRASHEARS: as I stated earlier we
19 came through the hallway, vestibule and as you
20 come in the establishment opens up right inside

1 the door, right at the other end of the
2 vestibule.

3 MR. BIANCO: so, inside of the
4 establishment is where he met Keisha Hamilton?

5 MR. BRASHEARS: Yes sir.

6 MR. BIANCO: Did you see him meet with
7 Keisha Hamilton?

8 MR. BRASHEARS: yes.

9 MR. BIANCO: And were you inside or
10 outside the establishment?

11 MR. BRASHEARS: I was standing behind,
12 near, inside the establishment.

13 MR. BIANCO: Were you in the vestibule or
14 were you actually in the main floor of the --

15 MR. BRASHEARS: We were in the main
16 floor.

17 MR. BIANCO: How long is the vestibule in
18 your estimation?

19 MR. BRASHEARS: Maybe 10 feet.

20 MR. BIANCO: And you didn't wait outside

1 of the establishment while investigator Stewart
2 was inside talking with Keisha Hamilton?

3 MR. BRASHEARS: No.

4 MR. BIANCO: You and investigator Fox
5 went inside with him.

6 MR. BRASHEARS: Yes.

7 MR. BIANCO: How long -- I'm sorry. The
8 next thing you say that happened is that you
9 walked the establishment and did a head count?

10 MR. BRASHEARS: Yes.

11 MR. BIANCO: And what part of the
12 establishment did you did a head count on?

13 MR. BRASHEARS: The upstairs.

14 MR. BIANCO: Okay. And when you say the
15 upstairs, do you mean the second floor, the third
16 floor, the fourth floor?

17 MR. BRASHEARS: I believe we went -- I
18 believe we went up several floors. I don't
19 remember all -- I just know we went up.

20 MR. BIANCO: Okay, and how many floors

1 did you do a count of? Did you simply take a
2 count of one floor that you arrived at and then
3 moved down to the next one and took another
4 count?

5 MR. BRASHEARS: Yes.

6 MR. BIANCO: Okay. So you took a count
7 of a total of how many floors?

8 MR. BRASHEARS: From top down, I don't
9 recall -- basically from the top down.

10 MR. BIANCO: Okay. More than one?

11 MR. BRASHEARS: Yes, more than one.

12 MR. BIANCO: The exact number of which
13 you don't remember.

14 MR. BRASHEARS: Correct.

15 MR. BIANCO: Okay. How long did that
16 head count take for you to accomplish from top to
17 bottom?

18 MR. BRASHEARS: You know, I'm not really
19 sure. We were there for a few moments.

20 MR. BIANCO: A few moments being an hour?

1 MR. BRASHEARS: No.

2 MR. BIANCO: Half an hour?

3 MR. BRASHEARS: Probably less than that.

4 MR. RIVERO: The witness has testified
5 that he's not sure how long it took place.

6 MR. BIANCO: The witness has testified
7 that he's not sure exactly how long it took
8 place. I'm asking him to narrow that down
9 perhaps. We know it took less than an hour.

10 MR. RIVERO: I'm going to sustain my
11 objection, if the witness is not sure, the
12 witness is not sure.

13 CHAIRPERSON ANDERSON: All right. I
14 agree with counsel so -- I mean, sustained.

15 MR. RIVERO: Thank you, your Honor.

16 MR. BIANCO: Now, in your report it
17 states that intravenous Brashears contacted third
18 district MPD officer Eric Kennedy for assistance.
19 Is that how that actually occurred?

20 MR. BRASHEARS: Yes.

1 MR. BIANCO: What assistance were you
2 seeking from him at that point?

3 MR. BRASHEARS: Well, at that point I was
4 basically directed by my supervisor to go -- you
5 know -- find someone from MPD and bring them over
6 and that's what I did.

7 MR. BIANCO: And directed by your
8 supervisor means Stewart told you to go find a
9 police officer.

10 MR. BRASHEARS: Correct.

11 MR. BIANCO: Had he not given you that
12 instruction would you have made a report to the
13 police?

14 MR. RIVERO: Objection.

15 CHAIRPERSON ANDERSON: What's the basis
16 of your objection?

17 MR. RIVERO: It calls for speculation.
18 We're talking about what actually happened here.
19 I'm not sure what his own judgment has to do with
20 anything since the person who was the subject was

1 actually investigator Stewart.

2 MR. BIANCO: He's already stated that
3 it's a pretty minor incident and as a trained
4 ABRA investigator I want to know if in his
5 estimation whether this rose to the level of a
6 police matter.

7 CHAIRPERSON ANDERSON: I'll overrule.

8 I mean, I'm not quite sure what's the purpose
9 of it, but --

10 MR. BIANCO: Had you not been instructed
11 by investigator Stewart to find a police officer,
12 would you have made a report to the police in
13 this particular instance?

14 MR. BRASHEARS: Yes.

15 MR. BIANCO: You visited this
16 establishment prior to Saturday morning,
17 September the 5th of 2015, correct?

18 MR. BRASHEARS: Correct.

19 MR. BIANCO: In fact, you visited the day
20 before, Thursday the 3rd.

1 MR. BRASHEARS: I don't recall.

2 MR. BIANCO: If it refreshes your
3 recollection I believe you made that statement on
4 page 2 of your report. On Thursday, September 3,
5 2015, investigators Brashears and Fox, during a
6 previous visit to Madam's Organ.

7 MR. BRASHEARS: That's correct.

8 MR. BIANCO: Does that refresh your
9 recollection?

10 MR. BRASHEARS: It does.

11 MR. BIANCO: Being there the day before?

12 MR. BRASHEARS: Mm hmm.

13 MR. BIANCO: Was Stewart with you that
14 day?

15 MR. BRASHEARS: No, sir.

16 MR. BIANCO: Do you recall who was
17 working at the door that day?

18 MR. BRASHEARS: I do not.

19 MR. BIANCO: Do you remember if it was
20 Daniel Carr?

1 MR. BRASHEARS: Possibly.

2 MR. BIANCO: Did you have any problem
3 gaining entry on Thursday, September the 3rd?

4 MR. BRASHEARS: I don't recall.

5 MR. BIANCO: Have you had any -- do you
6 recall ever having had a problem gaining entry to
7 Madam's Organ?

8 MR. BRASHEARS: Yes.

9 MR. BIANCO: When?

10 MR. BRASHEARS: It has been my experience
11 whenever I've gone and Mr. Carr has been at the
12 door, he routinely asks you to stop and wait, and
13 the idea behind it is "well, let me find an ABC
14 manager so you're not going around the
15 establishment." And I always would say, "look,
16 I'm going in, have them meet me somewhere."
17 Because basically -- I understand the mentality
18 but you can't impede me.

19 MR. BIANCO: And has he ever stopped you
20 from going in?

1 MR. BRASHEARS: Yes. Every time he says
2 "stop and wait" and I disregard and say "have
3 them meet me at the bar" and go in.

4 MR. BIANCO: And upon you saying that and
5 you walking in, has he ever stepped in front of
6 you to stop you?

7 MR. BRASHEARS: No, he hasn't.

8 MR. BIANCO: Has he ever leaned on you?

9 MR. BRASHEARS: No.

10 MR. BIANCO: Physically touched you?

11 MR. BRASHEARS: No, sir.

12 MR. BIANCO: Impeded you in any way?

13 MR. BRASHEARS: Other than to briefly
14 stop me, no.

15 MR. BIANCO: Okay and would you consider
16 that a violation worthy of [inaudible Audio 3 --
17 58:13]

18 MR. BRASHEARS: No.

19 MR. BIANCO: And to the best of your
20 recollection is that the same course of events

1 that took place on September the 3rd, him saying
2 "you wait while I get an ABC manager" and you
3 saying, "no, I'm going in" and walking in anyway.

4 MR. BRASHEARS: Yes, he stated that he
5 was going in, yes.

6 MR. RIVERO: I mean, objection. Sort of
7 clarifying. Are you talking about September 3rd?

8 CHAIRPERSON ANDERSON: Well, there's --

9 MR. BIANCO: Let me clarify, because I
10 think I asked the wrong question --

11 MR. RIVERO: Yeah, he answered the
12 question.

13 MR. BIANCO: He answered the right
14 question.

15 CHAIRPERSON ANDERSON: So, you're -- you
16 can object after the question but that's --

17 MR. BIANCO: For the purpose -- right,
18 for the purpose of clarifying the record, what
19 the question should have been was on September
20 the 5th and not September the 3rd, but I think

1 the answer that he gave was correct to my
2 intended question. Thank you for pointing that
3 out.

4 MR. RIVERO: My pleasure.

5 MR. BIANCO: Do you have any reason to
6 believe -- do you have any -- do you know of any
7 reason why Mr. Carr would have decided to
8 physically impede on September the 5th when he
9 had not previously done that in your experience?

10 MR. BRASHEARS: No.

11 MR. BIANCO: Did anything to you seem
12 different on the 5th than it was on any of the
13 previous occasions that you had visited the
14 establishment?

15 MR. BRASHEARS: No.

16 MR. BIANCO: I'm just briefly going to
17 look at the report and make sure I don't have
18 anything else but I think that's it. Yes, that's
19 all I have. Thank you.

20 CHAIRPERSON ANDERSON: Any questions by

1 the board members? Mr. Short.

2 MR. SHORT: Good afternoon, Investigator
3 Brashears. On the evening in question, you were
4 clearly identified.

5 MR. BRASHEARS: Yes, sir.

6 MR. SHORT: And the other investigators
7 with you were clearly identified.

8 MR. BRASHEARS: Yes, sir.

9 MR. SHORT: You had been to this
10 establishment prior to that date.

11 MR. BRASHEARS: Yes, sir

12 MR. SHORT: This person clearly knew the
13 person in question, the door person, whomever did
14 the impeding, clearly knew you were an
15 investigator and who you work for.

16 MR. BRASHEARS: Yes, sir.

17 MR. SHORT: You said there were two
18 gentleman there, correct?

19 MR. BRASHEARS: Yes, sir.

20 MR. SHORT: Did either one of those

1 gentleman -- either one of those gentleman --
2 have any counting device as a clicker or counter
3 or anything that let them know how many people
4 were coming in and out of the club?

5 MR. BRASHEARS: I don't recall, sir.

6 MR. RIVERO: I'm going to have to lodge
7 an objection to the question on the record, as
8 much as I don't want to do that.

9 CHAIRPERSON ANDERSON: Sustained. It
10 doesn't mean you can't ask the question, Mr.
11 Short.

12 MR. SHORT: Okay.

13 CHAIRPERSON ANDERSON: Not a problem.

14 MR. RIVERO: Thank you for hearing that.

15 CHAIRPERSON ANDERSON: You're brave, Mr.
16 Rivero.

17 MR. RIVERO: You're the government.

18 MR. SHORT: Mr. Brashears, in your
19 testimony and also in your report you stated that
20 the -- there was a problem getting through the

1 club, correct?

2 MR. BRASHEARS: Through the entrance,
3 through the vestibule and inside, yes, sir.

4 MR. SHORT: Okay. And once you went upstairs to
5 do counting or whatever other duties you were
6 doing, could you get through clearly at that
7 time?

8 MR. BRASHEARS: Yes, sir. I mean, the
9 establishment was crowded, but there was no
10 impediment by the staff or anything of that
11 nature.

12 MR. SHORT: Okay, that's all I have.
13 Thank you, Mr. Brashears.

14 MS. MILLER: I just wanted to ask you, I
15 think I understood you to say that the -- I
16 believe his name is Mr. Carr, the bearded man at
17 the door. He knew you from past experiences and
18 had let you in previously, right?

19 MR. BRASHEARS: Yes, ma'am.

20 MS. MILLER: Did he see you that evening

1 or was he just looking at Mr. Stewart?

2 MR. BRASHEARS: No, I -- I -- I believe
3 he saw me and recognized me and that's why he
4 said, "ABRA is here" in a microphone. I mean, I
5 spend a great deal of time in Adams Morgan and
6 I'm not unknown to establishments.

7 MS. MILLER: Okay, and it was your
8 testimony that this was the first time he didn't
9 let you in.

10 MR. BRASHEARS: Well, again, you know, he
11 -- I didn't have a -- he didn't impede me -- obvi
12 -- well, obviously supervisor Stewart was in
13 front --

14 MS. MILLER: Right.

15 MR. BRASHEARS: -- but that was the first
16 time I had dealt with, other than momentary, "hey
17 wait a second," and then him allowing me in, yes
18 ma'am.

19 MS. MILLER: Okay, and let me just
20 clarify -- or ask you to clarify -- when you say

1 "well he says you know you have to wait and he
2 says something to the effect of like, "no, I
3 don't, I'm going in." Did he let you in or did
4 you just go in? Is there a distinction?

5 MR. BRASHEARS: Well typic -- in my
6 situation?

7 MS. MILLER: Yes.

8 MR. BRASHEARS: I would normally just
9 step around and keep going.

10 MS. MILLER: Okay. So, he'd say no and
11 you'd go around and he didn't block you.

12 MR. BRASHEARS: Yes, that's correct.

13 MS. MILLER: Okay. Separate from the
14 going inside which was what the law is which is
15 very important, but can you address what the
16 problem would have been to wait for the ABC
17 manager to come out? If there was such a
18 problem?

19 MR. BRASHEARS: Well, I mean --

20 MS. MILLER: Should I repeat it? If you

1 have an objection to it I understand.

2 MR. RIVERO: I want to understand the
3 question.

4 MS. MILLER: Okay. Separate from what
5 the law is which I think is pretty
6 straightforward about not impeding an
7 investigator, I'm asking him if there are
8 problems, or was there a problem in particular to
9 wait. What's the problem with a doorman says no,
10 wait, I want to wait for my ABC manager to come
11 out.

12 MR. RIVERO: Yeah, I'm gonna go ahead and
13 object to that question your honor.

14 CHAIRPERSON ANDERSON: Sustained.

15 MS. MILLER: Okay.

16 MR. RIVERO: Sorry.

17 MS. MILLER: That's it.

18 CHAIRPERSON ANDERSON: You're on a roll.

19 MR. ALBERTI: Don't get too brave,
20 though.

1 MS. MILLER: All right you may object to
2 that. Was there an urgency to going in right
3 then? September 5th, this is September 5th.

4 MR. RIVERO: I'm not objecting to the
5 question.

6 MR. BRASHEARS: I was -- or we -- myself,
7 investigator Stewart and investigator Fox were
8 advised that there were noise and possibly
9 overcrowding, so obviously we took what the MPD
10 said seriously and wanted to get inside as soon
11 as possible to ensure there were no issues.

12 MS. MILLER: Okay, thank you very much.

13 CHAIRPERSON ANDERSON: No other board
14 members with questions? Mr. Albert.

15 MR. ALBERTI: Forgive me, investigator
16 Brashears if you've already gone over this, but
17 you talked about sort of -- you talked about the
18 maneuvering of investigator Stewart as he was
19 trying to -- to -- to make his way through the
20 doorway and through the vestibule. During that

1 time, did Mr. Carr and Mr. -- did Mr. Carr make
2 physical contact? Was there any physical contact
3 between Mr. Carr and Mr. Stewart?

4 MR. BRASHEARS: Yes, sir.

5 MR. ALBERTI: Okay. Can you describe
6 that contact for me?

7 MR. BRASHEARS: Mr. Carr is quite a bit
8 taller than supervisor Stewart and he was leaning
9 forward with basically with his chest out and
10 trying to bar the way, and in doing so his chest
11 was against supervisor Stewart who was trying to
12 kind of go right and kind of go left to get
13 around and he backed up through the vestibule in
14 that same kind of posture with supervisor Stewart
15 still trying to get around him.

16 MR. ALBERTI: Okay. All right, no
17 further questions, thank you.

18 CHAIRPERSON ANDERSON: Any other
19 questions? All right, Mr. Rivero. Anything from
20 the board's questions?

1 MR. RIVERO: You had answered a question
2 from board member Short about the fact that you
3 were clearly identified to the individual at the
4 front. I just want to make sure that it's clear
5 that your answer to the question had to do with
6 Mr. Carr who was described as [inaudible Audio 3
7 - 1:07:22].

8 MR. BRASHEARS: Yes, sir.

9 MR. RIVERO: In the report.

10 MR. BRASHEARS: Yes, sir.

11 MR. RIVERO: Now, this establishment --
12 again it was as a question, in the language of a
13 question. It's not really a club, what license
14 is it?

15 MR. BRASHEARS: They are a CT.

16 MR. RIVERO: So, it's fair to
17 characterize it as a bar?

18 MR. BRASHEARS: Yes.

19 MR. RIVERO: Okay. No further questions.

20 CHAIRPERSON ANDERSON: Mr. Bianco? Thank

1 you, Mr. Brashears, for your testimony. Does the
2 government have any other witnesses?

3 MR. RIVERO: The government has no further
4 witnesses.

5 CHAIRPERSON ANDERSON: Does the
6 government rest at this portion?

7 MR. RIVERO: That is correct.

8 CHAIRPERSON ANDERSON: All right, Mr.
9 Bianco. We're going to take a short recess until
10 1:30. That should give you an opportunity to set
11 up your video and so the board will be at 1:12
12 the board will be in recess. I'm sorry.

13 MR. RIVERO: Yeah, I don't, I would
14 hesitate to have people do all kinds of things if
15 I'm going to raise an objection and I want to be
16 mindful of people's time. So, I guess -- now is
17 as good a time as any for me to raise this
18 objection.

19 CHAIRPERSON ANDERSON: What's the
20 objection, sir?

1 MR. RIVERO: Okay. It has come to my
2 attention that the licensee has a video to
3 present as evidence before this board today, and
4 so I need at some point to lodge an objection
5 that it would be contrary to do so at this time,
6 doing it now, so that if the board rules in my
7 favor, a lot of work is saved. The board's rules
8 for show cause hearings are different for its
9 rules for protest hearings. Protest hearings
10 rules are more precise and so, for instance,
11 there is a requirement that exhibits be
12 identified and witnesses be identified.

13 Conversely for a show cause hearing,
14 there is no such requirement. I would submit to
15 the board that you still have a logistical
16 interest in understanding whether he will be one
17 hour, two hours, four hours or six hours long.
18 So, aside from that there is a rule, and it's
19 rules 1713 that's 23 DCMR, 1713 that says "if
20 there's documentary evidence that is going to be

1 presented as an exhibit in a show cause hearing,"
2 well, just a hearing, "a copy has to be provided
3 to the other side." In the real world, I would
4 get a copy of the exhibit, I would look at it and
5 it would allow me an opportunity to raise an
6 objection before it is properly presented to the
7 board. This is normal litigation.

8 A video, I submit, ought not to be carved
9 out and treated in some special way from a
10 document that is handed to me. Ultimately, both
11 are evidence that are going to be provided to the
12 board for consideration. Now, before the board
13 asks me any questions about whether I have been
14 engaging in due diligence, or dilatory, again I
15 say to you that there is no requirement for the
16 licensee to tell me who's going to testify or
17 what he's going to introduce into evidence. That
18 is not to say that it's not my practice to
19 collaborate and to approach the other side, which
20 I do. My practice -- here are my witnesses, here

1 are my exhibits, okay? So, I did that in this
2 case and I did not receive the information
3 sufficient for me to be able to avoid making
4 these objections today. So, I don't believe it's
5 proper to show a video and treat it as some kind
6 of different evidence and me not being able to
7 see it and make any proper objection because
8 it'll be too late by the time it gets shown, to
9 make any objection as opposed to a document that
10 I get and I say, "oh, there's a problem with this
11 document and it shouldn't be presented to the
12 board. Now, probably the rationale was that the
13 rule may have been written with just paper in
14 mind and maybe the hearings back in those days
15 didn't have a lot of video being introduced. But
16 it's still a document in my mind, it's still
17 evidence, and I should be entitled to see a copy
18 of it before it's provided to the board in the
19 spirit of the rule 1714 that I've cited. Now,
20 since your side is going to have a witness

1 testify another day, the government has not
2 objected to that, it's perfectly appropriate even
3 to have the video shown on that second day and
4 that would allow me the opportunity to make
5 arrangements with the licensee's counsel and view
6 the video and raise any objections and not waste
7 any time.

8 CHAIRPERSON ANDERSON: Mr. Bianco before
9 I decide?

10 MR. BIANCO: Sure. Mr. Rivero is correct
11 that there is no rule requiring us to turn over
12 any documents or anything else that we intend to
13 use prior to the hearing and in this case he's
14 also correct that we did not. However, that is
15 not to say that he wasn't aware that the videos
16 existed and did not have the opportunity to get
17 them. Number one, it's video from security
18 footage from the establishment that the
19 investigators involved in this case have on many,
20 many, many, many, many occasions gone to my

1 client and required him to provide. There was
2 nothing preventing them from doing that in this
3 case.

4 Furthermore, after my client was finally
5 made aware that this was going to become an
6 allegation of some type of violation against them
7 called the director of the agency and said "hey,
8 Fred, I have these videos." Evidently, the
9 agency had no interest in having them.

10 Further, earlier on in the case, although
11 Mr. Rivero is 100% correct that I did not share
12 documents with him or evidence that I intended to
13 use, that is absolutely true. I did make him
14 aware that we had videos of the specific
15 incident, that I was not, I did not have the
16 authority of my client to share with them which
17 opened up yet another avenue for them to get it
18 by subpoena or document request or by some other
19 means, so the government had ample opportunity to
20 get evidence that we intend to present here today

1 and they opted not to until we showed up here
2 today.

3 Now, Mr. Rivero also correctly notes that
4 you're required to hand the other side a copy of
5 the document that you're going to use which is
6 true and he did that just as handed investigator
7 Brashears a copy of his report, he handed me a
8 copy of it as well so we could make arrangements
9 to have -- if we're going to recess anyway, my
10 client just advised me that he can certainly have
11 access to view it during the recess which is --
12 which is generally more time than I would get
13 when being handed a document as a witness being
14 examined, so if he's worried about treating this
15 video the same as any other document we're happy
16 to give it to him right now and he could look at
17 it during the recess and that would be more time
18 than he would otherwise be afforded if we were
19 showing documents or photographs or something
20 else. It's a seven minute video. It's not --

1 you know -- we're not watching a full length
2 movie.

3 CHAIRPERSON ANDERSON: All right we're
4 going to take a 20-minute recess. However,

5 MR. RIVERO: I actually have a point.

6 CHAIRPERSON ANDERSON: Hold on. Go
7 ahead.

8 MR. RIVERO: I need to respond to that.
9 I think it's very important that this board
10 understands what's really happening here. I
11 think any testimony or any proffer about
12 communications to the agency director --

13 CHAIRPERSON ANDERSON: I'm not --

14 MR. RIVERO: -- concerning a pending case
15 should completely ignore it. I think it's
16 important to understand that it -- that you have
17 a pending case the person who needs to be
18 conducting those questions and requests is the
19 government attorney, number one. Number two,
20 you've heard testimony that I was "aware, on

1 notice, that there was a video and I could have
2 issued -- have a subpoena issued. I want to
3 really crystalize the context of that
4 conversation, okay? There is no right to
5 discovery in administrative litigations, okay?
6 Members of the bar afford themselves courtesies
7 and we treat each other with courtesy so that you
8 can imagine if I received a statement that, "oh,
9 we have a video but my client does not authorize
10 me to show it to you, I extended the courtesy to
11 counsel to try to change his mind and to advise
12 me if he was going to use it or not. And there
13 was no response back until a day or so ago. I
14 just want to be clear what -- that there should
15 be no reason in your mind that I was on notice
16 and somehow didn't take any appropriate action.

17 CHAIRPERSON ANDERSON: I don't -- I'm not
18 going to take notice of what was the
19 representation that was made by counsel, so I'm
20 gonna -- do you have a question, Mr. Alberti?

1 MR. ALBERTI: Mr. Bianco, do you have a -
2 -

3 CHAIRPERSON ANDERSON: Well, that's what,
4 that's what I was going to ask.

5 MR. ALBERTI: Yeah, does he have an extra
6 copy?

7 CHAIRPERSON ANDERSON: Hold on. This is
8 why. Hold on one minute, hold on, all right.

9 MR. ALBERTI: Like you can only do
10 documents

11 CHAIRPERSON ANDERSON: Okay, this is why.
12 Hold on one minute. 1713.2 states any parties
13 who offer document or evidence shall at the
14 hearing provide copies to the opposing counsel.
15 Mr. Bianco, do you have a copy to provide to Mr.
16 Rivero? The law says you have to provide him a
17 copy. And that's and the bottom line is that if
18 you -- I'm gonna -- this is one of the reasons
19 why -- it says that it has to be provided to
20 counsel. So, we're going to take -- I'm sorry --

1 so you've provided Mr. Rivero copies of the
2 documentary evidence that you're going to rely
3 upon?

4 MR. BIANCO: In this case a video,
5 correct, and there's one more exhibit that Mr.
6 Rivero and I discussed this morning that I don't
7 anticipate an objection to which I'm also going
8 to provide -- it's merely a photograph of the
9 front of the establishment. I don't anticipate
10 an objection to it but I will likewise provide
11 that.

12 CHAIRPERSON ANDERSON: Okay, so that's
13 his copy or is that just the video -- is that his
14 copy or is it that you're sharing -- what --

15 MR. BIANCO: That's our copy. He can
16 have it for now. Additional copies are on the
17 way.

18 CHAIRPERSON ANDERSON: All right, we're
19 going to take a 20 minute break. How long is the
20 video?

1 MR. BIANCO: Total? It's less than seven
2 minutes.

3 CHAIRPERSON ANDERSON: Okay. Mr. Rivero,
4 we're going to take a 20 minute break. They're
5 going to set it up. You can review it and then
6 when we come back if you have objections then
7 we'll entertain that.

8 MR. BIANCO: I could also offer use of my
9 laptop and he could watch it right on there.

10 CHAIRPERSON ANDERSON: Well I'm -- that's
11 one of the reasons that we're taking the break is
12 for I was given a note to say we were going to
13 set up your video. That's one of the reasons why
14 we're taking a recess to set up the video. In
15 the recess, and I'm saying 20 minutes because 7
16 minutes is for Mr. Rivero -- since Mr. Rivero now
17 has a copy, the law, they can review it and when
18 we come back if the objection is raised based on
19 the document then we can deal with that okay?

20 MR. RIVERO: I'm fine with that.

1 CHAIRPERSON ANDERSON: I have no idea of
2 the provided, it says that these are the
3 documents, here they area. We're --

4 MR. ALBERTI: Perhaps just to maybe
5 smooth things, make things go quicker during that
6 20 minutes? Why three discs if it's only seven
7 minutes?

8 MR. BIANCO: Three different cameras.
9 Three camera angles.

10 MR. ALBERTI: Okay, so it's total of
11 seven minutes?

12 MR. BIANCO: In the same time frame, yes.

13 CHAIRPERSON ANDERSON: Okay, so --

14 MR. ALBERTI: Cumulatively seven minutes?
15 I'm just trying to get an idea.

16 CHAIRPERSON ANDERSON: The board is in
17 recess for 20 minutes. Mr. Rivero you can let us
18 know when we come back -- all right.

19

20 CHAIRPERSON ANDERSON: We're back on the

1 record for the show cause hearing for Madam's
2 Organ. Mr. Bianco, are you ready to call your
3 first witness?

4 MR. BIANCO: I am ready to call my first
5 witness. We have a police officer and I want to
6 just get him out of here.

7 CHAIRPERSON ANDERSON: Okay, sure.

8 MR. BIANCO: He wasn't my intended first
9 witness, I just want to ask him two or three
10 questions that I had.

11 MR. RIVERO: It's your case.

12 CHAIRPERSON ANDERSON: Sure

13 MR. BIANCO: As long as we don't have any
14 objection --

15 MR. RIVERO: To have the police officer
16 first?

17 MR. BIANCO: The police officer just
18 comes in.

19 MR. RIVERO: Absolutely, get him in the
20 streets.

1 MR. BIANCO: His case. You can do it in
2 any order you want.

3 CHAIRPERSON ANDERSON: Mr. Bianco, do you
4 want to call your first witness please?

5 MR. BIANCO: Yes, I call Officer
6 Kennedy.

7 CHAIRPERSON ANDERSON: Officer Kennedy.
8 Can you please stand and raise your right hand,
9 please? Do you swear or affirm to tell the truth
10 and nothing but the truth?

11 OFFICER KENNEDY: Yes.

12 CHAIRPERSON ANDERSON: Thank you. Have a
13 seat. Your witness, Mr. Bianco.

14 MR. BIANCO: Officer Kennedy, would you
15 state your first and last name please?

16 OFFICER KENNEDY: Eric Kennedy.

17 MR. BIANCO: And where are you employed.

18 OFFICER KENNEDY: Metropolitan Police
19 Department.

20 MR. BIANCO: What's your job there?

1 OFFICER KENNEDY: Police officer for the
2 third district.

3 MR. BIANCO: Okay. And were you -- how
4 long have you been doing that?

5 OFFICER KENNEDY: Just over six years.

6 MR. BIANCO: Were you on duty on 18th
7 Street at Adams Morgan on the morning of
8 September the 5th, 2015?

9 OFFICER KENNEDY: Yes.

10 MR. BIANCO: And did you have occasion to
11 respond to Madam's Organ at 2461 18th Street
12 Northwest?

13 OFFICER KENNEDY: Yes.

14 MR. BIANCO: Could you please describe
15 how you came to respond to that specific
16 location?

17 OFFICER KENNEDY: There was a commotion
18 in front of the bar and some other officers up
19 there and I was part of an overtime unit so we
20 responded up to assist.

1 MR. BIANCO: Okay, and what happened when
2 you got there?

3 OFFICER KENNEDY: When we got there, it
4 appeared that the ABRA investigators were having
5 an issue at the front door to which I was advised
6 that they were denied entry.

7 MR. BIANCO: Okay. You didn't actually
8 see them in the entryway?

9 OFFICER KENNEDY: No.

10 MR. BIANCO: Okay, and what did you --
11 what, if anything, did you see?

12 OFFICER KENNEDY: I was -- with everyone
13 up there, the sergeant in charge of my overtime
14 advised me to take the report in reference to the
15 incident.

16 MR. BIANCO: And is that what you did?

17 OFFICER KENNEDY: Yes.

18 MR. BIANCO: And who did you talk to,
19 to take the report?

20 OFFICER KENNEDY: I don't remember his

1 name, I apologize.

2 MR. BIANCO: Was it investigator Stewart?

3 OFFICER KENNEDY: It was an ABRA
4 supervisor.

5 MR. BIANCO: Okay. And was his name
6 Stewart?

7 OFFICER KENNEDY: I believe it is. If I
8 could see the report I'd be able to refresh my
9 memory.

10 MR. RIVERO: The witness has testified
11 that he does not remember the person's name.

12 CHAIRPERSON ANDERSON: The witness
13 answered the question, so let's move on.

14 MR. BIANCO: I understand, I was just
15 trying to avoid the exercise of showing him the
16 report so we can get him out of here. Did you do
17 any independent investigation with regard to the
18 incident?

19 OFFICER KENNEDY: Other than speaking to
20 him, no.

1 MR. BIANCO: Okay. Did you talk to any
2 other witnesses that were around?

3 OFFICER KENNEDY: No.

4 MR. BIANCO: Okay, so your report was
5 based only on what was reported to you by the
6 ABRA investigator.

7 OFFICER KENNEDY: Correct.

8 MR. BIANCO: Okay. Thank you. That's
9 all I have.

10 CHAIRPERSON ANDERSON: Mr. Rivero.

11 MR. RIVERO: No questions.

12 CHAIRPERSON ANDERSON: Do you have any
13 questions of the office by any of the board
14 members? Mr. Alberti.

15 MR. ALBERTI: Yes, Officer. Good
16 afternoon. Thank you for coming, thank you for
17 your service. I just, real quick, so you were
18 told that ABRA investigators were told by some
19 MPD official that there was noise emanating from
20 the establishment. Are you aware of that?

1 OFFICER KENNEDY: I'm not, no.

2 MR. ALBERTI: All right.

3 OFFICER KENNEDY: If there was, it wasn't
4 brought to my attention.

5 MR. ALBERTI: Okay, and okay, very good.
6 Thank you.

7 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

8 MS. MILLER: Good afternoon. I just want
9 to clarify, the only time that you talked with
10 ABRA investigators on the 5th was after you heard
11 there was an issue that they were denied entry?

12 OFFICER KENNEDY: Yes.

13 MS. MILLER: Okay, thank you.

14 CHAIRPERSON ANDERSON: Yes, Mr. Rivero.

15 MR. RIVERO: Officer Kennedy.

16 OFFICER KENNEDY: How you doing?

17 MR. RIVERO: Other than what you wrote in
18 your report -- you were asked to write a report -
19 - do you have an independent memory of what
20 happened that night?

1 OFFICER KENNEDY: Can you clarify on
2 that?

3 MR. RIVERO: Sure. Do you have a memory
4 of what happened that night, separate from what
5 you wrote in the report?

6 OFFICER KENNEDY: In general or just in
7 reference to that?

8 MR. RIVERO: In reference to this
9 incident.

10 OFFICER KENNEDY: Honestly, no. Just the
11 report.

12 MR. RIVERO: You testified that someone
13 asked you to write this down, you said -- your
14 supervisor?

15 OFFICER KENNEDY: Yes.

16 MR. RIVERO: Who was that?

17 OFFICER KENNEDY: Sergeant Perrin.

18 MR. RIVERO: Perrin?

19 OFFICER KENNEDY: Yes.

20 MR. RIVERO: Okay. Thank you. No

1 further questions.

2 CHAIRPERSON ANDERSON: Thank you very
3 much, officer. Do you wish to call a second
4 witness?

5 MR. BIANCO: Yes.

6 CHAIRPERSON ANDERSON: Who is that?

7 MR. BIANCO: Dan Carr.

8 CHAIRPERSON ANDERSON: Can you call your
9 next witness, Mr. Bianco?

10 MR. BIANCO: Dan Carr.

11 CHAIRPERSON ANDERSON: Mr. Carr, can you
12 please stand, sir? Can you raise your right
13 hand? Do you swear or affirm to tell the truth
14 and nothing but the truth?

15 MR. CARR: Yes.

16 CHAIRPERSON ANDERSON: Thank you, you can
17 have a seat. Your witness.

18 MR. BIANCO: Can you state your name for
19 the record and spell your last name please?

20 MR. CARR: Daniel Carr, C-A-R-R.

1 MR. BIANCO: What's your job, Mr. Carr?

2 MR. CARR: The door guy. I'm one of the
3 door guys at Madam's Organ.

4 MR. SILVERSTEIN: Sir, can you get a
5 little closer to the mic?

6 MR. CARR: I'm one of the door guys at
7 Madam's Organ.

8 MR. BIANCO: And by door guy, do you
9 actually have an official job title?

10 MR. CARR: Security. I'm one of the
11 security members.

12 MR. BIANCO: And do you have a normal
13 schedule that you work at the door?

14 MR. CARR: I work Sunday through
15 Wednesday open to close.

16 MR. BIANCO: Okay. So, you work on the
17 weekends?

18 MR. CARR: Well, yeah, Wednesday through
19 Sunday.

20 MR. BIANCO: Wednesday through Sunday?

1 MR. CARR: Wednesday through Sunday,
2 sorry.

3 MR. BIANCO: Okay. How long have you
4 worked in that job?

5 MR. CARR: Give or take five years.

6 MR. BIANCO: How long have you been
7 employed at Madam's Organ overall?

8 MR. CARR: Seven.

9 MR. BIANCO: I'm going to ask you to
10 recall the Thursday of September the 3rd, 2015,
11 do you remember that night?

12 MR. CARR: Yes.

13 MR. BIANCO: Were you working on that
14 night?

15 MR. CARR: I was.

16 MR. BIANCO: Was there a visit by ABRA
17 that night?

18 MR. CARR: Yes, there was.

19 MR. BIANCO: Could you please describe
20 for me what happened on the 3rd?

1 MR. CARR: The ABC officers walked up, I
2 asked them for their IDs, they presented their
3 badges, they asked if there was a manager on duty
4 around. I radioed the manager on duty. They
5 waited at the door. The manager came down and I
6 introduced the parties and they went about their
7 business.

8 MR. BIANCO: Okay. Is that normally how
9 you greet ABRA investigators when they come to
10 Madam's Organ?

11 MR. CARR: Yes. We ask everyone for an
12 identification.

13 MR. BIANCO: Did you refuse them access?

14 MR. CARR: No.

15 MR. BIANCO: Did they try to walk in
16 past you?

17 MR. CARR: No.

18 CHAIRPERSON ANDERSON: I didn't hear and
19 answer. Was there an answer?

20 MR. BIANCO: I think he did answer.

1 CHAIRPERSON ANDERSON: Can you --

2 MR. BIANCO: Can you repeat your answer?

3 MR. CARR: No.

4 MR. BIANCO: Do you remember who the ABRA
5 investigators were on the night of the 3rd?

6 MR. CARR: Not by name, no.

7 MR. BIANCO: Okay. Was there a manager -
8 - who was the manager on duty on the 3rd?

9 MR. CARR: Ms. Hamilton.

10 MR. BIANCO: Were you working the next
11 night which was Friday, the 4th into Saturday the
12 5th?

13 MR. CARR: Yes.

14 MR. BIANCO: Do you recall that night?

15 MR. CARR: I do, yes.

16 MR. BIANCO: And do you remember where
17 you were working at approximately 1:40 a.m.?

18 MR. CARR: I was at the front door with
19 my regular shift.

20 MR. BIANCO: I'm going to show you a

1 document that we're going to mark as R1 for
2 Respondent 1. I do have copies for each of the
3 board members. Do you recognize that document?

4 MR. CARR: Yes, sir.

5 MR. BIANCO: And what is it?

6 MR. CARR: That is the front of Madam's
7 Organ.

8 MR. BIANCO: Okay. Now using that
9 picture could you describe where you were
10 situated on the evening of -- I'm sorry on the
11 morning of -- September the 5th at 1:40 a.m.?

12 MR. CARR: I was, from this to the far
13 left door there's a wheelbarrow, there's a short
14 step and then there's a wall. I was positioned
15 on that step next to the wall slash wheelbarrow.

16 MR. BIANCO: Okay.

17 MR. CARR: Do you want me to? --

18 MR. BIANCO: So, you were behind the
19 barrel on the left-hand side on the photo?

20 MR. CARR: Yes, I was on that short step

1 right there.

2 MR. BIANCO: Okay, up on the step?

3 MR. CARR: Yes.

4 MR. BIANCO: Okay. Was anybody else
5 positioned on the exterior of the establishment
6 at 1:40 a.m.?

7 MR. BIANCO: There are two door guys,
8 Darion, he goes by Baba -- he was standing right
9 next to, slightly in front of that wheelbarrow.

10 MR. BIANCO: Mm hmm. And when you say
11 wheelbarrow you mean the barrow pictured to the
12 left hand side of the picture there?

13 MR. CARR: Yes, off the short step, that
14 wheelbarrow right there.

15 MR. BIANCO: So the second -- so the
16 second doorman was standing in front of the
17 barrow.

18 MR. CARR: Yes.

19 MR. BIANCO: His name is Darion but he
20 goes by Baba.

1 MR. CARR: Yes, sir.

2 MR. BIANCO: Okay. And what was he
3 doing?

4 MR. CARR: He's in charge of checking
5 IDs.

6 MR. BIANCO: Okay and what were you
7 doing?

8 MR. CARR: I was in charge of the money.

9 MR. BIANCO: Was the door open or closed?

10 MR. CARR: The door was closed.

11 MR. BIANCO: Why is that?

12 MR. CARR: After 10:00 we keep all the
13 doors closed, besides entering in and out, people
14 coming in and out.

15 MR. BIANCO: Do you recall ABRA
16 investigator Stewart coming to Madam's Organ that
17 night at approximately that time?

18 MR. CARR: Yes.

19 MR. BIANCO: Did you know it was
20 investigator Stewart at the time you came?

1 MR. CARR: No, sir.

2 MR. BIANCO: You learned that later?

3 MR. CARR: Yes.

4 MR. BIANCO: Okay, so what happened when
5 he came up?

6 MR. CARR: He walked up through a line of
7 people we had. He walked right by Baba. I asked
8 him for his identification. He said he was with
9 ABRA and continued to walk past me.

10 MR. BIANCO: Okay. Did you recognize him
11 when he walked up?

12 MR. CARR: No, sir.

13 MR. BIANCO: Had you ever seen him
14 before?

15 MR. CARR: No.

16 MR. BIANCO: Did he have a badge
17 displayed?

18 MR. CARR: There was nothing present.
19 And when I asked him for his identification he
20 did not provide any.

1 MR. SILVERSTEIN: Can you say that again
2 and speak a little more slowly?

3 MR. CARR: Beg your pardon?

4 MR. SILVERSTEIN: Your answer, I want to
5 make sure I heard you.

6 MR. CARR: He did not have a badge on
7 anywhere noticeable and when I asked him he
8 refused to show it.

9 MR. BIANCO: And when he responded that
10 "I'm with ABRA" and he continued to walk past
11 you, what did you do?

12 MR. CARR: I continued to ask him to
13 provide an I'd for me.

14 MR. BIANCO: Did you take a step to your
15 left to impede his progress?

16 MR. CARR: No, sir.

17 MR. BIANCO: Okay, what did you do?

18 MR. CARR: I stood there. He opened the
19 door and at that time I moved out of his way to
20 hold the door open for him.

1 MR. BIANCO: Okay, so you were holding
2 the door open. Which direction were you facing?
3 Were you -- was your back to the door or was your
4 back to the left side wall there?

5 MR. CARR: This door opens outward, so as
6 it opened I had my back up against that door as
7 he was leaning into the hallway.

8 MR. BIANCO: Okay, so you were turned to
9 the side.

10 MR. CARR: Yes.

11 MR. BIANCO: At what point did you notify
12 a manager that ABRA was there?

13 MR. CARR: When he came in and said he
14 was with ABC, our policy is to immediately alert
15 the manager on duty just to let them know that
16 ABC's in the building.

17 MR. BIANCO: Okay, and how did you do
18 that?

19 MR. CARR: I had a walkie talkie.

20 MR. BIANCO: Okay. Did you see anybody

1 that was with investigator Stewart that night?

2 MR. CARR: No.

3 MR. BIANCO: Now, take me through what
4 happened after you were standing with your back
5 up against the door holding it open. Can you
6 please tell me what happened next.

7 MR. CARR: He continued to walk right
8 past me and at that time I continued to follow
9 asking him to provide me with an I'd and at that
10 point he was already in the building. We have a
11 second pair of bay doors and he had already
12 entered through those and at that time Ms.
13 Hamilton had heard me on the radio and came up
14 and she was at the stage.

15 MR. BIANCO: Is there a vestibule inside
16 of the front door?

17 MR. CARR: A vestibule?

18 MR. BIANCO: A small hallway.

19 MR. CARR: Yes.

20 MR. BIANCO: Okay. Approximately how

1 long is that hallway?

2 MR. CARR: Maybe five feet.

3 MR. BIANCO: Okay. And were you making
4 physical contact with the investigator inside of
5 that hallway?

6 MR. CARR: No, sir.

7 MR. BIANCO: Were you impeding his
8 progress?

9 MR. CARR: No, sir --

10 MR. BIANCO: -- through that hallway?

11 MR. CARR: No, sir.

12 MR. BIANCO: Was he pushing you backwards
13 to get through the hallway?

14 MR. CARR: No.

15 MR. BIANCO: Are there any security
16 personnel posted on the inside of the premises
17 immediately inside of the door?

18 MR. CARR: We do have an officer who
19 stands at the stage, next to the stage as well.

20 MR. BIANCO: And where is that in

1 relationship to the entry door?

2 MR. CARR: As you enter through the
3 hallway, like I said there's another set of bay
4 doors and then immediately in front of you
5 there's a staircase and he was positioned there
6 and then there's the stage right to your right,
7 your immediate right.

8 MR. BIANCO: So, he was positioned at the
9 bottom of the staircase directly in front of you.

10 MR. CARR: Yes.

11 MR. BIANCO: And have you worked at that
12 particular station in the past?

13 MR. CARR: I have in my previous years.

14 MR. BIANCO: And when you're working at that
15 particular station are you able to see what's
16 going on in the hallway?

17 MR. CARR: You can clearly see the
18 hallway and the front door and if that front door
19 is open you can see into the street, yes.

20 MR. BIANCO: Okay, and what's the name of

1 the person that was stationed at the bottom of
2 the stairs on that particular evening?

3 MR. CARR: That night, it was Kamani --
4 Kamani Mann is his entire name.

5 MR. BIANCO: How long has Kamani been
6 working with you?

7 MR. CARR: He's been with us for about a
8 year.

9 MR. BIANCO: And was he at his position
10 at the time you were entering the premises with
11 investigator Stewart?

12 MR. CARR: Yes.

13 MR. BIANCO: And what happened when
14 investigator Stewart met the manager?

15 MR. CARR: At that point I backed up
16 because I delivered the officer to her and from
17 there I'm not an ABC licensed manager so I
18 stepped back and just -- just kind of monitored
19 the situation to make sure that if we needed to
20 provide an ID I was there to check it.

1 MR. BIANCO: Okay. At that point was a
2 head count of the establishment taken?

3 MR. CARR: Yes. We have a clicker that
4 we tap in and out people.

5 MR. BIANCO: Not what I was asking but
6 let me get back to that.

7 MR. CARR: Sorry.

8 MR. BIANCO: At that point in time, did
9 the investigator conduct a head count of the
10 number of people that were in the establishment?

11 MR. CARR: Not that I'm aware of.

12 MR. BIANCO: At that point in time had
13 two other investigators come into the place?

14 MR. CARR: No.

15 MR. BIANCO: Now, you already mentioned
16 it so let me go back to it very quickly. How do
17 you keep it -- how do you determine how many
18 people are in the establishment?

19 MR. CARR: We have a clicker that we
20 count in and out people. That gives us an

1 overall number.

2 MR. BIANCO: And did you have your
3 clicker that night?

4 MR. CARR: Yes, sir.

5 MR. BIANCO: Okay, and you have it every
6 night?

7 MR. CARR: It's -- yes, it's protocol.

8 MR. BIANCO: What's the next thing that
9 happened after investigator Stewart spoke with
10 Ms. Hamilton?

11 MR. CARR: At that point Ms. Hamilton
12 asked me to go get my ID -- or, we walked back
13 outside and I was told to get my I'd at that
14 point.

15 MR. BIANCO: When you say "we walked back
16 outside" who do you mean?

17 MR. CARR: Mr. Stewart, Ms. Hamilton
18 walked out and I followed them and at that point
19 I was told to get my ID.

20 MR. BIANCO: Okay, at any point did you

1 see investigator Stewart provide identification
2 or display his badge?

3 MR. CARR: I did not personally, no.

4 MR. BIANCO: Is there any point that you
5 noticed it following his conversation with Ms.
6 Hamilton?

7 MR. CARR: I recall when we were back
8 outside there was a badge visible at that point.

9 MS. MILLER: I'm sorry, I couldn't hear -
10 - what's the last words you said?

11 MR. CARR: I said at the point as when we
12 walked outside, Mr. Stewart and Ms. Hamilton went
13 outside, he did have a badge visible at that
14 point.

15 MS. MILLER: Okay, thank you.

16 MR. BIANCO: What happened when you got
17 back outside?

18 MR. CARR: Like I said, I was told to get
19 my ID. I went down and got it out and I took
20 door and from there, there was an officer that I

1 provided my ID for, a police officer.

2 MR. BIANCO: And was that Officer
3 Kennedy?

4 MR. CARR: Yes, sir.

5 MR. BIANCO: Okay. Did he ask you
6 anything about what happened?

7 MR. CARR: No.

8 MR. BIANCO: Okay.

9 MR. CARR: He just took my information
10 and that was it.

11 MR. BIANCO: And what happened after you
12 provided your information to Officer Kennedy?

13 MR. CARR: I stood there for a minute or
14 two and then eventually I was told to go back to
15 work.

16 MR. BIANCO: Okay. Now, going back to
17 exhibit 1, are you aware -- you are -- are you
18 aware that there are security cameras on the
19 premises?

20 MR. CARR: Yes, sir.

1 MR. BIANCO: And are you aware that there
2 are security cameras monitoring the front door of
3 the premises?

4 MR. CARR: Yes, sir.

5 MR. BIANCO: Could you please describe
6 for the board where those cameras are positioned
7 in the photograph that you have in front of you
8 labeled as Exhibit 1.

9 MR. CARR: If one of the cameras, if you
10 look to the far right, you'll see the wheelbarrow
11 and a hanging sign. In that corner there's a
12 camera that shows a lateral view of the entire
13 porch.

14 MR. BIANCO: So the camera -- and that's
15 aimed towards the front door?

16 MR. CARR: That's aimed towards the like
17 where we stand, it shows the entire view of the
18 porch, yes it's pointed to the door, yes.

19 MR. BIANCO: And the second camera?

20 MR. CARR: If you look you see the sign

1 that says 2461, there's a camera right above
2 that.

3 MR. BIANCO: Okay. And that's pointing
4 outwards towards the street?

5 MR. CARR: Yeah, it shows the doorway and then
6 into the street.

7 MR. BIANCO: Okay. I was going to take
8 this opportunity to show the witness a video and
9 if we have any preliminary objections or we have
10 to do anything else with this screen here. Have
11 you had the opportunity to review the security
12 footage from that evening?

13 MR. CARR: Yes, I was in the [inaudible
14].

15 MR. BIANCO: Okay and does it truly
16 accurately depict what happened that night?

17 MR. CARR: Yes, sir.

18 MR. BIANCO: And do you know how, or how
19 long these videos are maintained for?

20 MR. CARR: I don't know.

1 MR. BIANCO: Okay. Who knows that?

2 MR. CARR: Managers on duty.

3 MR. BIANCO: Okay. How about the owner,
4 Mr. Duggan?

5 MR. CARR: Yes.

6 MR. BIANCO: Okay.

7 MR. RIVERO: The government will object
8 at this time. No foundation whatsoever has been
9 laid for the maintenance of this video, it's not
10 been authenticated, how it came about, no clue.
11 Just because the witness says he's been familiar
12 with the video doesn't really -- to my view
13 anyway -- rise as a level of sufficient
14 foundation or authentication for this video.

15 MR. BIANCO: The witness was there. The
16 witness has testified that there is security
17 footage showing the area in question at the time
18 in question and since he was there, his testimony
19 will be that the video truly and accurately
20 reflects what happened at that date and on that

1 [inaudible Audio 4 - 26:58] for authentication
2 purposes. Additionally, to further bolster the
3 authenticity of the video that's really
4 questioned, Mr. Duggan is going to testify as to
5 the authenticity, how it's maintained, how it's
6 transferred to a DVD, how the video is kept and I
7 am sure any other questions that the government
8 has for him with regard to chain of custody or
9 other --

10 CHAIRPERSON ANDERSON: So, again, what's
11 the nature of your objection, Mr. Rivero?

12 MR. RIVERO: Well, I mean, put it in
13 common sense terms, this is the cart before the
14 horse. They didn't teach me in law school to put
15 it in those terms --

16 CHAIRPERSON ANDERSON: Well that's -- I'm
17 asking you so that's why I ask you what's the
18 nature of your objection?

19 MR. RIVERO: Right. Well, typically we
20 have exhibits, evidence, authenticated, and a

1 sufficient foundation laid. I'm just, you know -
2 - lodging the objection before we go forward and
3 you can decide as you will, but for the record
4 the government at this point doesn't believe that
5 that has been met. That hurdle.

6 MR. BIANCO: We believe that it has and
7 if the board has issues with it we're happy to
8 excuse Mr. Carr and call Mr. Duggan to
9 authenticate the video and bring Mr. Carr back.
10 If we'd like to go through that parade and also
11 not a phrase they taught me in law school. Happy
12 to do that to the government's satisfaction, but
13 I think what probably makes the most sense is to
14 allow Mr. Carr to authenticate the video and then
15 allow Mr. Duggan to answer any issues that the
16 government may have regarding how that video was
17 made.

18 CHAIRPERSON ANDERSON: Mr. Rivero, you've
19 had an -- you were -- during our recess you were
20 provided a copy -- should I say a copy of the

1 document?

2 MR. RIVERO: I've used their copy, yes,
3 during the recess.

4 CHAIRPERSON ANDERSON: I'm gonna overrule
5 the objection, so --

6 MR. ALBERTI: May I ask this real quick
7 question because of something Mr. Bianco. Mr.
8 Bianco are you asking this witness to
9 authenticate the video or are you just asking
10 this witness to sort of describe what he -- what
11 he -- was happening on the video.

12 MR. BIANCO: I'm going to be asking this
13 witness to do two things: 1) Describe what's
14 happening on the video and also testify that the
15 video truly and accurately depicts the events as
16 they took place on that particular evening. The
17 testimony, not authentication.

18 CHAIRPERSON ANDERSON: I don't -- you can
19 go ahead, I mean I don't have a problem with --
20 you can show the video, I don't have a problem

1 with it. All right Mr. Carr you are permitted to
2 leave the stand and come on this side, sir.

3 MR. RIVERO: For what purpose?

4 MR. ALBERTI: They will move, they will
5 move, Mr. Rivero, thank you. Now, if the witness
6 would sit at the counsel's table that would be
7 great.

8 MR. BIANCO: Mr. Carr, can you describe
9 which camera that is, please?

10 MR. CARR: This is the camera of
11 [inaudible Audio 4 - 35:00].

12 MR. ALBERTI: I'm going to ask you to be
13 closer to the microphone so we can hear you. You
14 want to move that?

15 MR. CARR: You want me to repeat that?

16 MR. ALBERTI: Yes, please.

17 MR. CARR: This would be the camera from
18 -- that is right above the 246 sign that shows
19 the front door and past going into the street,
20 shooting away from the bar.

1 MR. BIANCO: Okay, and I'm going to allow
2 the video to advance at this point and then I'm
3 going to stop it when I see you enter the
4 picture. Is that you standing at the right-hand
5 side?

6 MR. CARR: Yes, I'm the gentleman with
7 the hat.

8 MR. BIANCO: Okay, and the beard.

9 MR. CARR: Yes.

10 MR. BIANCO: Collecting money from your
11 patrons as they enter.

12 MR. CARR: Yes.

13 MR. BIANCO: Okay. Now I'm going to stop
14 it there. Who's that individual that is standing
15 behind you?

16 MR. CARR: That is Kamani Mann.

17 MR. BIANCO: Okay. And what was he doing
18 outside at that point, if you know?

19 MR. CARR: If anything, from that walkway
20 we do have people leave a lot of drinks and stuff

1 in the hallway and it's their job if they have
2 time to come out and clear the hallway, pick up
3 glasses and whatnot.

4 MR. BIANCO: Allow the video to advance
5 again and I'm going to stop it right there. Do
6 you recognize the person in that frame of the
7 picture?

8 MR. CARR: That's Mr. Stewart.

9 MR. BIANCO: Okay.

10 MR. CARR: At that time I didn't know
11 that was Mr. Stewart.

12 MR. BIANCO: Is there anyone next to him?

13 MR. CARR: No.

14 MR. BIANCO: Were you able to see any
15 other ABRA investigators with him at that point
16 in time?

17 MR. CARR: No, sir.

18 MR. BIANCO: And did you see any
19 identification or badge on him at that point?

20 MR. CARR: There's no badge or any

1 identification visible.

2 MR. BIANCO: Okay and what happened at
3 that point in the video?

4 MR. CARR: I asked for Mr. Stewart for
5 his I'd, he said he was with ABRA and that
6 basically I couldn't stop him from going in,
7 basically.

8 MR. BIANCO: And did you try to stop him
9 from going in?

10 MR. CARR: No, sir.

11 MR. BIANCO: Again, I'm going to allow
12 the video to advance again. Can you please
13 describe for me what's happening at that point in
14 the video?

15 MR. CARR: He refused to show me any
16 identification so I continued to ask him and at
17 that point the door was opening, so I was
18 basically getting out of his way.

19 MR. BIANCO: Okay. And where's the door
20 in this photo?

1 MR. CARR: It would have been to the left
2 of me to my back --

3 MR. BIANCO: To your back?

4 MR. CARR: On the left side, yes.

5 MR. BIANCO: Okay. And stopping it there
6 on the right hand side is that the open door, or
7 opening door front and center?

8 MR. CARR: Yes. That's my back towards
9 the door, the [inaudible]

10 MR. BIANCO: And what's happening at that
11 point in the video?

12 MR. CARR: Mr. Stewart continues to walk
13 past me without any identification and I'm
14 blocking the door and asking to please show me an
15 ID.

16 MR. BIANCO: Okay, and looking back
17 towards the post where you were standing, at that
18 point are there any other people that you
19 recognize as ABRA investigators?

20 MR. CARR: There's no one that I

1 recognize as ABRA, no.

2 MR. BIANCO: And stopping the video
3 again: Now in that frame at that point do you
4 now recognize anybody where you were once
5 standing, that's an ABRA investigator?

6 MR. CARR: Yes. The gentleman in the
7 glasses.

8 CHAIRPERSON ANDERSON: Can you go back
9 one video please.

10 MR. ALBERTI: Oh, it's continuous,
11 hopefully it's continuous.

12 MR. BIANCO: Yes, it is continuous.

13 CHAIRPERSON ANDERSON: All right, okay,
14 that's fine. That's where it is.

15 MR. BIANCO: You want me to roll it from
16 there?

17 CHAIRPERSON ANDERSON: Yes.

18 MR. BIANCO: Okay. And now in the frame
19 is there a second person that you recognize to be
20 an ABRA investigator?

1 MR. BIANCO: And do you know that
2 person's name?

3 MR. CARR: I do not.

4 MR. BIANCO: Have you seen her before?

5 MR. CARR: I have.

6 MR. BIANCO: At that point could you
7 describe what's going on in the video?

8 MR. CARR: We were walking outside, and I
9 was following Mr. Stewart and Ms. Hamilton back
10 outside.

11 MR. BIANCO: Okay. And is that Ms.
12 Hamilton? Who's this person here?

13 MR. CARR: I think that is the

14 MR. RIVERO: I need to object to make
15 sure the record is clear what counsel means by
16 "this person here." The record can't reflect
17 that.

18 MR. BIANCO: That's true. Let the record
19 reflect that there is a pointer on a female in a
20 button down shirt with a ponytail, situated in

1 front of investigator Stewart, and I'm asking the
2 witness if he knows to please identify that
3 person by what I'm seeing. Can you identify the
4 person?

5 MR. CARR: I believe that's one of the
6 other off duty ABC officers.

7 MR. BIANCO: Okay. And at that point
8 could you identify the people, at this point can
9 you please identify the people that are in the
10 frame here?

11 MR. CARR: The gentleman with the badge
12 is Mr. Stewart.

13 MR. BIANCO: Yeah.

14 MR. CARR: The woman to his right our
15 left, is Ms. Hamilton and the gentleman with the
16 hat on is myself.

17 MR. BIANCO: And what was happening at
18 that point in terms of the conversation between
19 the parties?

20 MR. CARR: I couldn't hear exactly what

1 they were discussing at that point, but shortly
2 after all this, I was asked to go get my ID.

3 MR. BIANCO: Okay, and prior to that
4 point as you exited the establishment had you
5 seen investigator Stewart's badge?

6 MR. CARR: No.

7 MR. BIANCO: Had you seen a badge on
8 either of the other investigators?

9 MR. CARR: No

10 MR. BIANCO: And who is the other
11 individual wearing a staff T-shirt in that
12 photograph?

13 MR. CARR: That is Darion, aka Baba.

14 MR. BIANCO: That's Baba.

15 MR. CARR: Yes.

16 MR. BIANCO: Okay. And at that point you
17 disappear from the frame. What were you doing at
18 that point?

19 MR. CARR: I was asked to present my ID
20 so I went to the office to get it.

1 MR. BIANCO: Okay, and that's downstairs?

2 MR. CARR: Yes sir.

3 MR. BIANCO:

4 MR. BIANCO: And what happens when you
5 return with your ID?

6 MR. CARR: I showed them I had my ID and
7 I walk out into the street and there's an officer
8 waiting who I showed my ID to.

9 MR. BIANCO: And could you please state
10 whether or not the video that I just showed you
11 truly and accurately depicts the evidence of
12 September the 5th, 2015, at approximately 1:40
13 a.m. as you recall them?

14 MR. CARR: Yes, that's correct.

15 MR. BIANCO: I'm going to show you a
16 second video. And could you please state which
17 camera is shooting that particular video?

18 MR. CARR: [inaudible Audio 4 - 45:55]

19 MR. BIANCO: And what you're using to
20 identify the location of that camera is

1 Respondents Exhibit #1, the photograph, correct?

2 MR. CARR: Yes, sir.

3 MR. BIANCO: Okay, and right now are you
4 visible in the frame?

5 MR. CARR: No.

6 MR. BIANCO: How about now?

7 MR. CARR: Yes.

8 MR. BIANCO: Okay. And is that you --
9 I'm sorry -- describe where you are.

10 MR. CARR: I'm sitting on a stool with my
11 hat, talking to that gentleman right there.

12 MR. BIANCO: Okay. Now, at that point in
13 the video you could see somebody with a staff T-
14 shirt on the right hand side. Who's that person?

15 MR. CARR: That's Kamani.

16 MR. BIANCO: Okay. And where are you?

17 MR. CARR: I'm standing on the step right
18 there with my arm extended looking down at that
19 gentleman. Okay, and can you tell who that
20 gentleman is from that particular angle?

1 MR. CARR: No.

2 MR. BIANCO: What now?

3 MR. CARR: That's Mr. Stewart.

4 MR. BIANCO: And where are you standing
5 in relation to Mr. Stewart?

6 MR. CARR: I'm -- see this front, kind of
7 on the side, on his right side, I guess.

8 MR. BIANCO: Okay.

9 MR. CARR: Or left side.

10 MR. BIANCO: Were you attempting to
11 impede his entry at that point?

12 MR. CARR: No.

13 MR. BIANCO: Did you stop him from
14 stepping up onto the step?

15 MR. CARR: I did not.

16 MR. BIANCO: And how about at that point?
17 Could you please describe what's happening there?

18 MR. CARR: I have my back up against the
19 door. Mr. Stewart is walking by me. His left
20 shoulder is on my chest almost.

1 MR. BIANCO: Okay. And did you move to
2 your left to stop him from going into the
3 doorway?

4 MR. CARR: No, I rotated my body to make
5 access for him to come in.

6 MR. BIANCO: Okay. And are you holding
7 the door open with your body?

8 MR. CARR: It's my back against the door,
9 yes.

10 MR. BIANCO: And can you please describe
11 what's happening there?

12 MR. CARR: I'm continually asking Mr.
13 Stewart to provide an ID for myself and my back's
14 against the door as it is opening.

15 MR. BIANCO: Okay, and what's his
16 response when you're continually asking him to
17 provide an ID for you?

18 MR. CARR: He kept saying that I can't
19 stop him from coming in, I can't impede his
20 progress.

1 MR. BIANCO: Were you saying "stop, stop,
2 don't come in"?

3 MR. CARR: No.

4 MR. BIANCO: Were you saying anything to
5 that effect?

6 MR. CARR: No.

7 MR. BIANCO: Were you doing anything
8 physical to stop him from coming in?

9 MR. CARR: Not at all.

10 MR. BIANCO: And at that point is any
11 part of your body still in the frame?

12 MR. CARR: It shows my hand still
13 opening, holding onto the door as it's open.

14 MR. BIANCO: Okay, so that's your hand
15 there on the right hand side of the screen on the
16 door?

17 MR. CARR: Yes.

18 MR. BIANCO: Okay. Were you in front of
19 investigator Stewart at that point?

20 MR. CARR: At that point he already

1 walked past me. He was -- he would be in front
2 of me.

3 MR. BIANCO: Okay, and at that point
4 you're in the hallway beyond the front door?

5 MR. CARR: Yes.

6 MR. BIANCO: And that's approximately 5
7 feet long?

8 MR. CARR: Yes.

9 MR. BIANCO: How tall are you?

10 MR. CARR: I'm six foot three.

11 MR. BIANCO: Okay. So, arm to arm, can
12 you reach both doors at the same time?

13 MR. CARR: Almost.

14 MR. BIANCO: Okay, and what was your
15 other hand doing at the point that your right
16 hand was spread out holding the front door open.

17 MR. CARR: I was making room for him to
18 walk through and saying "can I see your ID,
19 please?

20 MR. BIANCO: Okay. Where was Mr. Mann

1 located at the time investigator Stewart was
2 walking through the hallway?

3 MR. CARR: He would have been standing
4 right beyond the two bay windows at the foot of
5 the stairs.

6 MR. BIANCO: So, investigator Stewart
7 would be walking towards him at this point?

8 MR. CARR: Yes.

9 MR. BIANCO: And at that point in the
10 video can you see any other ABRA investigator
11 that have approached the front porch of the
12 establishment?

13 MR. CARR: There's one gentleman I
14 recognize from this angle, yes.

15 MR. BIANCO: Okay and is that
16 investigator Brashears?

17 MR. CARR: I'm not sure of his name but I
18 recognize his face right there.

19 MR. BIANCO: The gentleman with glasses?

20 MR. CARR: Yes, sir.

1 MR. BIANCO: At that point in the video
2 investigator Stewart emerges from the
3 establishment?

4 MR. CARR: Yes.

5 MR. BIANCO: Okay. And do you recognize
6 the woman in the black shirt in front of him?

7 MR. CARR: I recognize her, yes. I'm not
8 sure what her name is.

9 MR. BIANCO: Okay. Is she one of the
10 ABRA investigators?

11 MR. CARR: She was one of them that I
12 recognized, yes.

13 MR. BIANCO: And at that point you re-
14 entered the frame and what's going on at that
15 point?

16 MR. CARR: That's as I followed Mr.
17 Stewart and Ms. Hamilton outside, at this point
18 this is when Ms. Hamilton asked me to get my ID.

19 MR. BIANCO: And then you go back inside
20 and get your ID?

1 MR. CARR: Yes.

2 MR. BIANCO: Based on your review of this
3 video does it truly and accurately depict the
4 events of September the 5th, 2015 at
5 approximately 1:40 a.m. as you remember them?

6 MR. CARR: Yes.

7 MR. BIANCO: Thank you. I don't have
8 anything further of this witness.

9 CHAIRPERSON ANDERSON: Thank you. Mr.
10 Rivero, your witness. I'm not sure how you're
11 going to do this but we'll see.

12 MR. RIVERO: I don't know how I'm going
13 to do it either but I think we'll just wing it.

14 MR. BIANCO: Would it be easier if I
15 switched seats with you, Mr. Rivero, so that you
16 could have access to --

17 MR. RIVERO: No need. I will stand. Mr.
18 Carr, you testified that you said you didn't know
19 his name but there was an investigator in that
20 video that you recognized from before?

1 MR. CARR: No, not the gentleman that
2 walked by me, no, I had never seen him before,
3 no.

4 MR. RIVERO: There was another
5 investigator you said you recognized in that
6 video, right?

7 MR. CARR: Yes.

8 MR. RIVERO: Okay. And you also
9 specified that you didn't know his name but that
10 you recognized him.

11 MR. CARR: The gentleman that became
12 upset, yes.

13 MR. RIVERO: Okay. You don't know his
14 name?

15 MR. CARR: No.

16 MR. RIVERO: Okay. But you recognize
17 him?

18 MR. CARR: Yes.

19 MR. RIVERO: How is it that you recognize
20 him?

1 MR. CARR: As we spoke earlier on the, I
2 think it was the Thursday before that, he was one
3 of the responding -- he was one of the ABC
4 officers that was there and over my time at that
5 time ABC has come out multiple times and I
6 recognize a few of the officers that come out.

7 MR. RIVERO: Okay. ABC officers, you
8 mean these investigators, right?

9 MR. CARR: Just the two that were second,
10 not the original gentleman that walked in.

11 MR. RIVERO: I understand. I understand.
12 With respect to the one, the male you said you
13 identified because you'd seen him before, how
14 often had you seen him before?

15 MR. CARR: Maybe two or three times
16 previous to that.

17 MR. RIVERO: So, that's enough you say to
18 recognize his face?

19 MR. CARR: I would say so, yes.

20 MR. RIVERO: Okay. And his badge?

1 MR. CARR: Not necessarily his badge,
2 just his face.

3 MR. RIVERO: Okay, but when he had
4 approached you he would have a badge.

5 MR. CARR: Yes, sir. He would have a
6 badge present. It would be visible.

7 MR. RIVERO: It wouldn't be visible?

8 MR. CARR: It would -- it would be
9 visible in the past.

10 MR. RIVERO: In the past. Again I'm
11 talking about these instances that you're saying
12 are the reason why you recognized this other
13 individual's face. When he approached the
14 establishment, in the front, did he ask you to
15 speak with the ABC manager?

16 MR. CARR: Well, he would show me his
17 identification, he would present himself as ABC,
18 and he would ask me if there was a manager on
19 duty he could speak with.

20 MR. RIVERO: Okay. And then you'd tell

1 him to wait right there and you'd get him a
2 manager?

3 MR. CARR: No, sir.

4 MR. RIVERO: No. Okay. What would be
5 your response in the past?

6 MR. CARR: Well, I always carry a radio
7 and the manager on duty also has a radio, so I
8 would radio them and ask them to wait and if they
9 wanted to, they would. And if not, they could
10 enter the building.

11 MR. RIVERO: Okay. So you used your
12 radio to let the manager know that ABRA is here.

13 MR. CARR: Yes, sir.

14 MR. RIVERO: Okay. And then you asked
15 them to wait.

16 MR. CARR: Depending on -- if they want
17 to come in they have the right.

18 MR. RIVERO: But you have asked them to
19 wait in the past.

20 MR. CARR: If they wouldn't mind.

1 MR. RIVERO: Okay. If they wouldn't
2 mind.

3 MR. CARR: Yes.

4 MR. RIVERO: All right. You testified
5 that you went inside the establishment after
6 investigator Stewart entered. Is that correct?
7 Is that your testimony?

8 MR. CARR: I was asking him for his ID as
9 he walked by me, yes.

10 MR. RIVERO: Right. So, he walked by
11 you, meaning he walked past you into the
12 establishment? And that's your testimony?

13 MR. CARR: Yes.

14 MR. RIVERO: So, you were behind?

15 MR. CARR: Yes.

16 MR. RIVERO: You testified that you
17 entered the establishment.

18 MR. CARR: I followed him asking for his
19 identification yes.

20 MR. RIVERO: Right. And you testified

1 that you followed him.

2 MR. CARR: While I was asking him.

3 MR. RIVERO: And where did you follow him
4 to?

5 MR. CARR: We walked through the doorway

6 --

7 MR. RIVERO: Yes?

8 MR. CARR: -- and at that point Ms.
9 Hamilton was at the stage, which is right inside
10 the first hallway, and I said, "Keisa, this is
11 the ABC manager " and then from there.

12 MR. RIVERO: So, you were no longer in
13 the hallway at that point is what you're saying.

14 MR. CARR: No.

15 MR. RIVERO: Okay.

16 MR. CARR: At that point we were in the
17 establishment next to the stage in front of the
18 stairs or next to the stairs.

19 MR. RIVERO: Then you testified after you
20 presented the investigator to the ABC manager,

1 you left.

2 MR. CARR: No.

3 MR. RIVERO: What did you do?

4 MR. CARR: I stood there to see -- to
5 wait for him to produce -- or to provide an I'd
6 so I could check it.

7 MR. RIVERO: He provided an ID to whom?
8 To you?

9 MR. CARR: No, he never showed me any
10 sort of identification.

11 MR. RIVERO: I don't under -- I need you
12 to clarify what he was doing standing there.

13 MR. CARR: I was standing there after I
14 showed Ms. Hamilton the ABC officer --

15 MR. RIVERO: Yes.

16 MR. CARR: I stood there and waited for
17 him to provide an ID. Anyone can say they were
18 part of an ABC officer and walk in.

19 MR. RIVERO: Right.

20 MR. CARR: So, I was waiting there and

1 like I said I was behind Mr. Stewart, and then
2 apparently he provided an ID to Ms. Hamilton.

3 MR. RIVERO: How do you know that?

4 MR. CARR: That's when I was standing
5 there as he turned around and as we walked up he
6 did have a badge available.

7 MR. RIVERO: He turned around and walked
8 out? So, you were there the entire time?
9 Because you testified that you actually left, you
10 just testified on the stand that you had left the
11 area after you introduced the investigator to the
12 manager.

13 MR. CARR: No, sir.

14 MR. RIVERO: You didn't do that?

15 MR. CARR: Well, I -- I -- I testified
16 that I stood there while Ms. Hamilton and Mr.
17 Stewart talked and then as the video shows the
18 exited the building and I followed them and then
19 at that point I was asked to get my
20 identification.

1 MR. RIVERO: Okay, so then you never left
2 before they did.

3 MR. CARR: No --

4 MR. RIVERO: Left the room.

5 MR. CARR: No, I was there. They -- they
6 walked out before I did, I was always behind Mr.
7 Stewart.

8 MR. RIVERO: You were there the entire
9 time?

10 MR. CARR: Yes.

11 MR. RIVERO: Okay. Now, you do make a
12 lot of statements about investigator Stewart not
13 presenting badges, but earlier while you were
14 sitting on the witness stand before the video
15 came up you testified and I wrote this down that
16 they presented their badges and you did not
17 refuse the investigator access and you did not
18 try to walk around him. So which is it? Did he
19 present the badge as you testified earlier or not
20 as you testified most recently.

1 MR. BIANCO: I'm going to object to the
2 characterization of the testimony which was as to
3 September the 3rd, a day earlier, when badges
4 were presented.

5 MR. RIVERO: That actually wasn't clear
6 and the witness is stating that that's the
7 testimony now and that's fine, but that wasn't
8 clear from the first time that he had answered
9 that. You saw on the video just now about which
10 you are testifying footage from two cameras. The
11 first one had the back of your head and which
12 showed investigator Stewart's face coming in,
13 right?

14 MR. CARR: Yes, sir.

15 MR. RIVERO: Okay. And you were talking
16 about that video. I'm not gonna play the video
17 unless you need me to but you would admit that
18 the video basically shows investigator Stewart
19 From the neck or the chest up, because from there
20 down we see your head and your back. Right? Mr.

1 Stewart's hands are not visible in the video.

2 MR. CARR: His hands were at his -- you
3 can see anything from the top of his head to the
4 bottom of his belt, I would say you can see his
5 entire whole upper body.

6 MR. RIVERO: Then I guess we're just
7 going to have to replay the video. That would be
8 the first one.

9 CHAIRPERSON ANDERSON: Thank you, I
10 needed to see that one too.

11 MR. ALBERTI: Trust me, we're going to go
12 over it again.

13 MR. RIVERO: Okay, I guess this is the
14 first frame about where you testified that Mr.
15 Stewart appeared.

16 MR. CARR: Yes.

17 MR. RIVERO: Okay. And you see that
18 there is a hand visible and he appears to be
19 holding something here in the video. You can
20 advance it. You can't see his hand in that

1 frame, can you?

2 MR. CARR: You can see it at the bottom.

3 MR. RIVERO: Both of his hands?

4 MR. CARR: You can see his hand that was
5 moving.

6 MR. RIVERO: Which one?

7 MR. CARR: His right hand.

8 MR. RIVERO: Okay. Where? Stop. Can
9 you see either of his hands?

10 MR. CARR: No, sir.

11 MR. RIVERO: Keep going. Stop. Can you
12 see either of his hands?

13 MR. CARR: No sir.

14 MR. RIVERO: Okay. That's it.

15 MR: I'm sorry

16 MR. RIVERO: You testified about two
17 cameras and they both are hanging outside on the
18 porch area, right?

19 MR. CARR: Yes, both of those cameras
20 show the porch.

1 MR. RIVERO: What other cameras are there
2 that you're aware of in the establishment?

3 MR. CARR: We have one that shows our
4 upper balcony, we have one on the main floor,
5 there's one upstairs. There's -- I'm pretty sure
6 there's one on every floor.

7 MR. RIVERO: Okay.

8 MR. CARR: But I'm not in charge of any
9 of the cameras.

10 MR. RIVERO: To your knowledge there
11 would have been a camera to show what happened
12 inside? You testified when you brought Mr.
13 Stewart -- investigator Stewart -- to your
14 manager.

15 MR. CARR: I'm not sure what part of the
16 floor those cameras show.

17 MR. RIVERO: Okay. Is there a camera in
18 the hallway?

19 MR. CARR: In the hallway inside the
20 door?

1 MR. RIVERO: Where you went in and you
2 testified that Mr. Stewart went in ahead of you -
3 - that hallway.

4 MR. CARR: There's not a camera there.

5 MR. RIVERO: Okay. Now, you testified
6 that you had performed -- had been performing
7 security for the establishment for the last five
8 years, is that right?

9 MR. CARR: As a doorman, yes.

10 MR. RIVERO: As a doorman, that's right.
11 Security, doorman, I'm using the words
12 interchangeably right now. MR. RIVERO: But you
13 also testified that you have been working for
14 Madam's Organ for seven years.

15 MR. CARR: Yes, sir.

16 MR. RIVERO: So, what did you do for the
17 other two years of those seven years?

18 MR. CARR: When I first started, I worked
19 on the mezzanine as the part of a host and to
20 make sure those hallways for the waitresses and

1 other bar backs to [inaudible] to the floor to
2 do their job. I've also barbacked and I've also
3 bartended there.

4 MR. RIVERO: That's what you did for
5 those two years?

6 MR. CARR: Those jobs were
7 interchangeable within the past six years.

8 MR. RIVERO: Okay. Hopefully we won't
9 have to use the video again, but about that first
10 video that I was saying you could tell you
11 couldn't see at certain points investigator
12 Stewart's hands. Later on in that video you
13 testified that you walked outside because you had
14 brought your ID to somebody outside. Do you
15 recall that?

16 MR. CARR: I came outside two separate
17 instances. At first, after I made Ms. Hamilton
18 aware of Mr. Stewart there, I followed them out -
19 -

20 MR. RIVERO: That's right --

1 MR. CARR: And at that point I was asked
2 to go grab my ID so I went downstairs to get my
3 ID and then I came out a second time.

4 MR. RIVERO: Okay and you testified you
5 gave your ID to the police officer?

6 MR. CARR: Yes. After the second time I
7 came out then I gave my ID to the police officer.

8 MR. RIVERO: Now that wasn't recorded in
9 the video was it?

10 MR. CARR: No, sir.

11 MR. RIVERO: So it happened off camera.

12 MR. CARR: Yes.

13 MR. RIVERO: Okay. About how far?

14 MR. CARR: I would say ten feet maybe to
15 the right.

16 MR. RIVERO: Okay. And to whom did you
17 give your ID?

18 MR. CARR: Mr. Kennedy was the officer
19 there.

20 MR. RIVERO: Okay. So it is your

1 testimony then that you never impeded
2 investigator Stewart.

3 MR. ALBERTI: I'm sorry?

4 MR. RIVERO: It is your testimony, then,
5 that you never impeded investigator Stewart's
6 entry into the establishment, right?

7 MR. CARR: No sir.

8 MR. RIVERO: Okay, so when I ask you then
9 it's your testimony that you did not apologize to
10 him then?

11 MR. CARR: As they were leaving, after
12 they, after all this they did go inside and Ms.
13 Hamilton led them around and they did their
14 original search or whatever they were doing. As
15 they were leaving, it was a corridor, we
16 apologized for any misunderstanding, we have to
17 work with you guys in the future, want to make
18 sure that everything runs smoothly.

19 MR. RIVERO: Let me rewind that just a
20 minute. When you said they went inside and did

1 whatever they were doing. I'm not sure what you
2 mean by that.

3 MR. CARR: At that -- to clarify that,
4 that's Ms. Hamilton's duties. I'm not the
5 manager on duty.

6 MR. RIVERO: Sure.

7 MR. CARR: So any of that information
8 would be obtained to her.

9 MR. RIVERO: Okay. So you're saying the
10 investigators went back in to do something you
11 didn't see.

12 MR. CARR: With Ms. Hamilton, yes.

13 MR. RIVERO: With Ms. Hamilton.

14 MR. CARR: After I gave my ID to the
15 police officer I was told to go back to work.

16 MR. RIVERO: Okay. And so you saw your
17 manager with the investigators go back in?

18 MR. CARR: Yes.

19 MR. RIVERO: Okay. And when you say you
20 were told to do your -- go do your job? Who told

1 you?

2 MR. CARR: The officer said he was done
3 with my ID --

4 MR. RIVERO: Right.

5 MR. CARR: And Ms. Hamilton told me to go
6 back to work.

7 MR. RIVERO: And what did that mean?
8 What did you do by going back to work?

9 MR. CARR: She told me to go back to my
10 post and grab the money and collect.

11 MR. RIVERO: So what was your post?

12 MR. CARR: I was the door -- I was the
13 money -- the money handler that night.

14 MR. RIVERO: The money handler.

15 MR. CARR: Yes, sir.

16 MR. RIVERO: What does that mean?

17 MR. CARR: We charge a \$5 cover to any
18 patrons that come in. They give me \$5 or I give
19 them change for a \$20 or whatever --

20 MR. RIVERO: Okay.

1 MR. CARR: Any monetary change they have.

2 MR. RIVERO: So, while you were
3 accompanying -- or going behind investigator
4 Stewart and walking outside and going back inside
5 to get your ID and walking back outside showing
6 it to the police officer, all of that -- was
7 anybody collecting money?

8 MR. CARR: Yes, sir.

9 MR. RIVERO: Who?

10 MR. CARR: Baba.

11 MR. RIVERO: Baba.

12 MR. CARR: Yes, sir.

13 MR. RIVERO: Okay. And I think his name
14 is Darion? I'm happy to call him [inaudible].
15 So Baba's job is not to collect the money, that
16 was yours.

17 MR. CARR: Yes.

18 MR. RIVERO: Did Baba have a separate and
19 distinct job that night from yours?

20 MR. CARR: He was also checking IDs.

1 MR. RIVERO: Okay. Also, meaning you
2 were checking IDs too? You said that you were
3 just collecting money.

4 MR. CARR: If anything that someone -- if
5 we had a line --

6 MR. RIVERO: Yes.

7 MR. CARR: I'm approved to check IDs as
8 well.

9 MR. RIVERO: Okay. Thank you. I don't
10 have any further questions at this time.

11 CHAIRPERSON ANDERSON: All right. Mr.
12 Carr, how did Ms. Hamilton know that there was
13 someone from ABRA at the door?

14 MR. CARR: When Mr. Stewart presented
15 himself as the ABC verbally, I have a radio and
16 every manager on duty also has a radio, so I
17 called her to have her come to the front door. Or
18 to make her aware there was an ABRA officer in
19 the building.

20 CHAIRPERSON ANDERSON: So, if Mr. Stewart

1 presents himself as an ABC manager -- I'm sorry -
2 - as an ABRA representative, you contact Ms.
3 Hamilton -- so why are you asking him for ID
4 then?

5 MR. CARR: Because he had no ID visible
6 when he came in. Anyone -- we have customers
7 from all over the worlds and some of them are not
8 aware of the American practices to check IDs so
9 every time anyone comes in we check their ID. He
10 had nothing physical, he just said he was part of
11 the ABC which anyone could use as a ruse to enter
12 the building.

13 CHAIRPERSON ANDERSON: Okay, so why
14 didn't you call Ms. Hamilton? Okay, anybody can
15 come in, anyone can come to say they're an ABC
16 person and not show ID so why am I gonna call the
17 ABC manager to come downstairs to meet this
18 phantom ABC -- ABRA investigator.

19 MR. CARR: It is our apology -- or our
20 policy for the management as a door guy, that

1 when ABC is on the property that we let the
2 manager on duty know.

3 CHAIRPERSON ANDERSON: I must say that
4 I'm -- your testimony is inconsistent because if
5 you had -- if you stated that he said it was an
6 ABC -- ABRA investigator, I wouldn't let him in
7 because he wouldn't show ID. I'd be happy with
8 that. But you're stating that someone came to
9 the door. They're saying that they are an ABC --
10 they are an ABRA investigator. You immediately
11 call the ABC manager to say ABRA's here, and then
12 you continue to ask this person for an I'd?

13 MR. CARR: Yes, sir. That's my job is to
14 check anyone's ID that comes on the property.

15 CHAIRPERSON ANDERSON: And so, how long
16 after this person who showed up at the door, who
17 stated that they were from ABRA, how long after
18 they showed up did Ms. Hamilton appear?

19 MR. CARR: From the time that Mr. Stewart
20 walked up to me and walked by me, I would say our

1 encounter lasted no more than 15 seconds. And
2 then Ms. Hamilton appeared at the stage.

3 CHAIRPERSON ANDERSON: So, did Ms.
4 Hamilton recognize that Mr. Stewart was from
5 ABRA?

6 MR. CARR: I can't speak to who she
7 recognizes. I'm not sure.

8 CHAIRPERSON ANDERSON: Okay. Any other
9 questions from board members? Go ahead, Mr.
10 Alberti.

11 MR. ALBERTI: All right, now I'm really
12 confused. Excuse me. The video shows a line
13 outside, is that correct?

14 MR. CARR: Yes.

15 MR. ALBERTI: So, was there a long line
16 outside that night?

17 MR. CARR: There was about 10 or 15
18 people in line, yes.

19 MR. ALBERTI: All right. Did Mr. Stewart
20 wait in line?

1 MR. CARR: No, sir.

2 MR. ALBERTI: How do you know that?

3 MR. CARR: I could see he walked right by
4 Baba and I was the one that had to ask him for
5 his ID and my main job that night, which I am
6 approved to do, but my main job was to collect
7 money, and Baba is the ID guy.

8 MR. ALBERTI: Okay. And you asked him for
9 the ID?

10 MR. CARR: Yes, sir.

11 MR. ALBERTI: Were you the first point of
12 contact for everybody in line?

13 MR. CARR: No, Baba was the first point
14 of contact since he's the ID guy. They brushed
15 by him and I was able to catch him as he was
16 walking through the crowd.

17 MR. ALBERTI: Okay. Did -- what did Mr.
18 Baba do when Mr. Stewart walked by him?

19 MR. CARR: I'm not sure exactly what he
20 was doing, he was probably checking someone's ID.

1 Like I said, we did have a line.

2 MR. ALBERTI: So, he let Mr. Stewart go
3 by and then just continued on his work and you
4 didn't think anything of this?

5 MR. CARR: That's why I stopped Mr.
6 Stewart and asked him for his identification
7 because I don't know if Baba saw him or not.
8 That's why we have two guys -- it tends to get
9 kind of hectic out there.

10 MR. ALBERTI: All right. So, can we just
11 go through the early part of that video real
12 quick? Real quick. First of all, is there a
13 date and time stamp on this video?

14 MR. RIVERO: There is both a date and
15 time stamp. The time stamp is not accurate, it
16 says 6:28.

17 MR. ALBERTI: So, I didn't see any.

18 MR. SHORT: It's on the upper screen.

19 MR. BIANCO: It's the upper middle of the
20 screen.

1 MR. ALBERTI: Okay, I'll take a look at
2 that then.

3 MR. SHORT: Yeah, 'cause I noticed the
4 time, 'cause I was worried about that.

5 MR. ALBERTI: The first video is the one
6 I'd like to go through quickly. Real quick. I'm
7 not gonna spend a lot of time. Okay, stop it
8 right there. What is the time at the top?

9 MR. BIANCO: 6:27:49

10 MR. ALBERTI: 6:27? Okay. Very good. I
11 know it's all relative. I -- I-m fine.

12 MR. BIANCO: It's more and less clear at
13 different periods of time, sure.

14 MR. ALBERTI: Okay, go, keep going a
15 little bit. Hopefully you didn't miss it -- or I
16 -- keep going -- keep going -- keep going -- keep
17 going -- keep going -- keep going -- -- keep
18 going -- keep going -- right there, right there.
19 Who's the guy with the walkie talkie, the radio?

20 MR. CARR: Closest to the camera?

1 MR. ALBERTI: Yeah.

2 MR. CARR: That's Kamani.

3 MR. ALBERTI: Okay, and this is before
4 you encountered Mr. Stewart, right?

5 MR. CARR: Yes, sir.

6 MR. ALBERTI: All right. Then what's he
7 doing on the radio at that point?

8 MR. CARR: All of our security and our
9 managers have the radios so someone could have
10 just said something.

11 MR. ALBERTI: So, it's possible that he
12 was as, well I'm not going -- it's possible --
13 well anyways. He was talking on the radio at
14 that point, does that appear to be what we're
15 seeing there?

16 MR. CARR: He could have been listening
17 to it, yes. Someone could have said something --

18 MR. ALBERTI: All right, all right. So
19 this is just before Mr. Stewart -- what's the
20 time here?

1 MR. BIANCO: 6:28:09.

2 MR. ALBERTI: 6:28:09. Okay, keep going.

3 And there's Mr. Stewart at 28:11?

4 MR. BIANCO: That's correct.

5 MR. ALBERTI: All right very good, thank

6 you. All right, so can we just go forward a

7 little bit? I'm not sure if there's anything

8 else. Just keep going. All right. There we go.

9 Keep going. Oh, I know. So, can we go towards

10 the end of this thing?

11 MR. BIANCO: Sure.

12 MR. ALBERTI: And show -- is Ms. Hamilton

13 in this video at all? The ABC manager, is that

14 her name?

15 MR. BIANCO: Yes.

16 MR. ALBERTI: Is she in this video at

17 all?

18 MR. BIANCO: She is.

19 MR. ALBERTI: She is? Where?

20 MR. BIANCO: She comes out at the end.

1 MR. ALBERTI: She comes out at the end?

2 MR. BIANCO: She comes out of the
3 establishment.

4 MR. ALBERTI: She comes out of the
5 establishment at the end?

6 MR. BIANCO: There she is, right there.

7 MR. ALBERTI: All right. So,

8 MR. BIANCO: This first time.

9 MR. ALBERTI: That right there. And they
10 are leaving then?

11 MR. BIANCO: I mean I don't want to
12 testify.

13 MR. ALBERTI: No, no, no, no. Mr. Carr.
14 So, what's happening here at this point where I'm
15 looking at Ms. Hamilton's back?

16 MR. CARR: At that point that's when I
17 get sent out -- after I handed Mr. Stewart off to
18 Ms. Hamilton and made her aware he was there, I
19 stood inside the building and then they decided
20 to walk out. I never heard any conversation of

1 what they were having.

2 MR. ALBERTI: So, wait, wait, wait.

3 Again, your testimony isn't consistent. So I'm
4 gonna walk you through this. When you handed --
5 where was -- where was she when you handed her
6 off to Investigator Stewart?

7 MR. CARR: She was right next to the
8 stage, after the hallway, inside the
9 establishment.

10 MR. ALBERTI: All right.

11 MR. CARR: Yes.

12 MR. ALBERTI: So, this is after you
13 handed her off to Mr. Stewart.

14 MR. CARR: This is after yes. They
15 already spoke inside the club.

16 MR. ALBERTI: They actually spoke inside
17 the club.

18 MR. CARR: Yes.

19 MR. ALBERTI: And the investigators, I
20 forget how you expressed it. They did their

1 thing, or whatever they do in there, right? You
2 said they did something in there.

3 MR. CARR: That was after the police had
4 taken my information and I -- and Ms. Hamilton
5 told me to go back to my post. At that point.

6 MR. ALBERTI: Okay. So you went -- I'm
7 trying to get the sequence of events. You went
8 inside, you handed the investigator off to Ms.
9 Hamilton, correct?

10 MR. CARR: I didn't hand him off --

11 MR. ALBERTI: I know, I just, I get it.
12 So you introduced the --

13 MR. CARR: I said this is the ABC --

14 MR. ALBERTI: Right. And you said you
15 stayed there the whole time.

16 MR. CARR: I took a step back and I let
17 them talk.

18 MR. ALBERTI: All right and then what
19 happens after they talked?

20 MR. CARR: And then they decided to walk

1 outside and as the video shows Mr. Stewart, then
2 Ms. Hamilton and myself, I'm in the back, and
3 then I walk out there with them and then at that
4 point they want me to get my I'd.

5 MR. ALBERTI: Okay. So what's the time
6 stamp here? Can't tell.

7 MR. BIANCO: I've got to let it run for
8 one second.

9 MR. ALBERTI: 30 - something?

10 MR. BIANCO: 30:31.

11 MR. ALBERTI: Okay. So they were inside
12 for about two minutes it looks like. Is that
13 about right from what I'm seeing?

14 MR. CARR: Maybe less than that
15 obviously. They weren't -- it wasn't very long
16 at all.

17 MR. ALBERTI: Okay. Where were the other
18 investigators when you came outside? What did
19 they do?

20 MR. CARR: After I came outside, from

1 what I remember they were standing at the gate,
2 at the -- we have a front gate where people were
3 lined up. They were standing off the step as
4 this picture shows, and in the street.

5 MR. ALBERTI: So, when investigator
6 Stewart and Ms. Hamilton exited, they exited too?
7 Is that correct?

8 MR. CARR: Nah, I never saw them inside
9 the club. As I was following them out. The only
10 time I saw them they were in the street. I never
11 saw them enter.

12 MR. ALBERTI: Okay. So, it's your
13 testimony that --

14 MR. CARR: Only Mr. Stewart --

15 MR. ALBERTI: That after this, after what
16 we're seeing here, they all went back inside?

17 MR. CARR: Well, Ms. Hamilton, they
18 wanted to go back inside and that's the ABC
19 manager's job. I was just told to go back to the
20 door, so whatever -- I don't know what they did

1 inside.

2 MR. ALBERTI: Did they all go back
3 inside?

4 MR. CARR: Yes. They went and did --

5 MR. ALBERTI: Who went inside?

6 MR. CARR: From what I remember, Ms.
7 Hamilton and Mr. Stewart. I can't remember if
8 the other two officers followed them or not.

9 MR. ALBERTI: Do we have video of them
10 going back inside? Mr. Carr?

11 MR. CARR: I'm not sure.

12 MR. ALBERTI: Thank you. Okay, I have no
13 further questions, thank you.

14 MR. SHORT: I have one. Mr. Carr, you've
15 been how long at the establishment?

16 MR. CARR: I've worked there for seven
17 years.

18 MR. SHORT: Seven years. Okay. And
19 you've been on the door how many years?

20 MR. CARR: About five. Solely at the

1 door for about five years.

2 MR. ALBERTI: About five years. Do you
3 know of any other doormen that work in clubs
4 around town?

5 MR. CARR: Yes.

6 MR. ALBERTI: Do any other doormen,
7 besides yourself, tell the D.C. government
8 official "you wait here until I announce you
9 before you come in this club."? Beside you?

10 MR. BIANCO: I'm going to make an
11 objection there as to the relevance of what other
12 doormen --

13 MS. MILLER: There's an objection.

14 CHAIRPERSON ANDERSON: I apologize, I
15 was, what was the question and --

16 MR. ALBERTI: I'll ask the question
17 again. The question was, Mr. Chair, I asked Mr.
18 Carr since he's been working there for six or
19 seven years and he said when D.C. government
20 officials from ABRA come, he tells them "you wait

1 here, you can't come in until I announce you
2 inside." And I asked him are there any other
3 doormen that he knows that says that?

4 MR. BIANCO: And I lodged an objection to
5 that question and I lodged an objection on
6 grounds of relevance, it doesn't matter what
7 other D.C. doormen do. It's not a consideration
8 here. And too I think it's a mischaracterization
9 of the testimony to date. He didn't say "you
10 can't come in" he said, "wait here." Not what --

11 CHAIRPERSON ANDERSON: All right, the
12 objection is sustained.

13 MR. ALBERTI: Okay, all right I'll go
14 back to this. How often do ABRA investigators
15 come to your establishment? How often?

16 MR. CARR: Through this time period or
17 overall?

18 MR. ALBERTI: Anytime. In a normal
19 month.

20 MR. CARR: Maybe one time? I'm not sure,

1 it depends --

2 MR. SHORT: I'm going to -- that but
3 there's been testimony here that our
4 investigators are picking on your establishment.
5 I heard that testimony today from someone. Is
6 that true? That our investigators come and
7 harass you?

8 MR. CARR: There have -- there was a time
9 and period where they were there at least two to
10 three times a week, yes.

11 MR. SHORT: When was this?

12 MR. CARR: About the time of this video,
13 this occasion.

14 MR. SHORT: Okay. You just gave
15 testimony that they only come once a month, and
16 now you're saying -- so, again, inconsistency.
17 You said, they only come once a month when I
18 asked you how often do they come, and then when I
19 tell you there's testimony that they have been
20 harassing you, then you say, they're harassing.

1 So, which is it? Are they harassing you or
2 aren't they?

3 MR. BIANCO: I'm going to object to
4 characterization again.

5 CHAIRPERSON ANDERSON: Rephrase the
6 question, Mr. Short.

7 MR. SHORT: Okay. Have you ever been
8 harassed by ABRA investigators?

9 MR. CARR: Can you explain harassed?

10 MR. SHORT: Harassed means they come
11 there not to do their duty but just come to have
12 it closed if they can.

13 MR. CARR: I'm unaware.

14 MR. RIVERO: I'm going to have to object
15 to the foundation or the premise of the question.
16 Being able to show up to an establishment because
17 you can is actually the legal right of an ABRA
18 investigator. And so, that is not a proper
19 foundation to characterize harassment.

20 CHAIRPERSON ANDERSON: I -- I -- I Would

1 assume that Mr. Bianco is the one who would want
2 to raise an objection, not the government, but
3 what it means, Mr. Short?

4 MR. SHORT: I'll rephrase it.

5 CHAIRPERSON ANDERSON: All right.

6 MR. SHORT: When ABRA investigators come
7 to the establishment which you run the door, are
8 they always there to do what's proper?

9 MR. CARR: When they have their badge
10 visible and they present themselves with
11 identification, yes I would assume that they were
12 there on ABRA-related responsibilities yes.

13 MR. SHORT: How long was the line -- that
14 night -- there was a line, how long was the lin?

15 MR. CARR: I would say about 10 to 15
16 people.

17 MR. SHORT: And so someone just barged in
18 front of the line with all the people were in
19 line don't complaint, they come straight up to
20 you and you stop them and they say "I'm ABRA" and

1 you say, "you didn't say --" So, I mean, so they
2 walked past your crew people, nobody complains to
3 you, nobody raises their hand, they just walk by,
4 three of them they say and you say it was only
5 one, correct? Did you say -- was it three or was
6 it one?

7 MR. CARR: The gentleman that approached
8 me was by himself.

9 MR. SHORT: Okay, so that one gentleman
10 walked past 15 people, did you think that was
11 strange?

12 MR. CARR: Not at the establishment where
13 I worked, like I said we have a lot of
14 international customers and a lot of people are
15 not aware that there's a line. People do drink
16 when they come up, so people try to cut in line
17 all the time and we tell them to get back in
18 line, so --

19 MR. SHORT: Did anybody tell this
20 gentleman to get back in line?

1 MR. CARR: I -- when he walked up to me
2 he said that he was with ABC and I asked him for
3 an identification and that's -- because he didn't
4 have anything visible. The prior experiences
5 I've had with every other ABC officer when they
6 walk up they present themselves as ABC and they
7 show some sort of identification, so I thought it
8 was a little peculiar yeah.

9 MR. SHORT: Okay, for the sake again of
10 just getting consistent, how often in the last 30
11 days or last 60 days, to your recollection, have
12 ABRA investigators been to your establishment
13 while you were working the door?

14 MR. CARR: I would say two times.

15 MR. SHORT: Two times.

16 MR. CARR: I've seen them. Yes.

17 MR. SHORT: That's all I have. Thank you
18 very much.

19 CHAIRPERSON ANDERSON: Ms. Miller.

20 MS. MILLER: Okay, all right. I just

1 have a couple of follow-up questions. I'll ask
2 you again about this. Mr. Stewart came up to the
3 front of the line I guess where you were. Did
4 you say I'm with the ABC group, I'm with ABC
5 ABRA?

6 MR. CARR: He verbally said "I'm ABC.

7 MS. MILLER: Okay. "I'm ABC." And you
8 said what?

9 MR. CARR: May I please see some
10 identification?

11 MS. MILLER: And he said what?

12 MR. CARR: And he walked by me and said
13 "I can't stop him".

14 MS. MILLER: He walked by you and turned
15 as he walked by you and said "you can't impede my
16 --"

17 MR. CARR: Yes, that I can't impede, that
18 I can't stop him from coming in, that's what his
19 response was, yes.

20 MS. MILLER: I think you said earlier and

1 I'm not trying to trip you up or anything it's
2 just similar -- you said that he refused to show
3 you ID.

4 MR. CARR: Yeah, he didn't show me ID --
5 he --

6 MS. MILLER: No --

7 MR. CARR: -- he yelled and said "you
8 can't stop me from coming in!" Like he refused
9 to show it because I asked him multiple times,
10 and to me that's refusal.

11 MS. MILLER: So did he "he didn't
12 actually say "I don't need to show you ID" or
13 anything?

14 MR. CARR: He never said that, no. He
15 said I can't stop him from coming in.

16 MS. MILLER: You just said he just didn't
17 want you to stop him. And you tried to stop him?

18 MR. CARR: No ma'am.

19 MS. MILLER: So he went -- the door was
20 closed?

1 MR. CARR: Yes.

2 MS. MILLER: And you said, oh you're just
3 going to open the door for him after you told him
4 you couldn't?

5 MR. CARR: Well at that time, he opened
6 the door.

7 MS. MILLER: He opened the door?

8 MR. CARR: Yes.

9 MS. MILLER: And did you hold the door
10 for him?

11 MR. CARR: As he was walking by me I held
12 the door. I mean no one has used a ploy to say
13 they're ABC to enter a club but asking for his
14 I'd just in case there was an incidence of that
15 happening. That's why I waited to see if he
16 could provide an ID for us.

17 MS. MILLER: All right but you also said
18 that he didn't comply and then you held the door
19 for him?

20 MR. CARR: I radioed my manager --

1 MS. MILLER: Okay.

2 MR. CARR: And alerted Ms. Hamilton that
3 there was -- not alerted, but I let her know that
4 there was ABC on the property and then I
5 continued to repeatedly ask him for some sort of
6 identification to prove that he was actually with
7 the agency.

8 MS. MILLER: And did you follow him in or
9 you just held the door then?

10 MR. CARR: As he walked by me I followed
11 him in so I could let Ms. Hamilton know who he
12 was since he didn't have any ID visible.

13 MS. MILLER: Okay. I'd like to clarify.
14 Did you say that [inaudible Audio 4 - 1:28:28] at
15 the end of the evening?

16 MR. CARR: On the way out. It was a
17 cordial apology for the misunderstanding and that
18 we're aware that we have to work with ABRA in the
19 future --

20 MS. MILLER: Okay.

1 MR. CARR: -- and we would like it to be
2 easier and more efficient.

3 MS. MILLER: What were you apologizing
4 for?

5 MR. CARR: It was just a professional
6 courtesy, just a cordial, because it seemed that
7 instance was completely blown out of proportion
8 because of just his refusal to show any ID
9 because we've had, I've dealt with ABRA, the
10 officers coming up, multiple times and I've never
11 had an instance like that, so it was more like
12 just a professional courtesy, a cordial "I'm
13 sorry for this getting out of hand or just the
14 misunderstanding."

15 MS. MILLER: What got out of hand? I'm
16 trying to figure out --

17 MR. CARR: Just the lack of communication
18 between me asking for his identification and him
19 barging through. There was -- there was just
20 several misunderstandings, and it was just a

1 cordial apology for any additional headache, I
2 guess.

3 MS. MILLER: But it's your testimony you
4 didn't block him coming in.

5 MR. CARR: I never stopped him from
6 coming in, no.

7 MS. MILLER: And then did you ask him for
8 an ID because you wanted to know if he was with
9 ABRA or did you ask him for his ID because he
10 [inaudible] didn't understand.

11 MR. CARR: Oh, I was asking him to prove
12 he was with ABC, as a courtesy for us to know
13 there is an actual agency officer in the
14 building, yes.

15 MS. MILLER: Okay.

16 MR. CARR: That's what I was asking for.

17 MS. MILLER: And he didn't have his badge
18 around his neck?

19 MR. CARR: He had no badge visible when
20 he came in, no.

1 MS. MILLER: And did you see it?

2 MR. CARR: As we came out, as the video
3 showed, he did have his -- he never showed it
4 personally to me but as when we came out I did
5 see that he had his badge out at that time. As -
6 - after I presented him to Ms. Hamilton, they
7 talked, and then they walked out and I followed
8 them. At that point, before I went downstairs to
9 get my ID, when he was standing there he did have
10 his badge out at that time, but when he walked up
11 to me originally he never had anything visible.

12 MS. MILLER: Okay, all right. Just thank
13 you, Mr. Carr.

14 CHAIRPERSON ANDERSON: I'm sorry, Ms.
15 Miller. Go ahead Mr. Alberti.

16 MR. ALBERTI: So, who summoned -- or who
17 told Ms. Hamilton that the ABRA investigator --
18 ABRA was there?

19 MR. CARR: That was myself. I radioed
20 her.

1 MR. ALBERTI: You radioed her? I don't
2 think I saw it on the video. If it's there, can
3 someone show me on the video where you're
4 radioing her and talking on a walkie talkie? I
5 don't see you talking on a walkie talkie, did I
6 miss this?

7 MR. CARR: I'm not sure -- it's not on
8 the video. I did radio because that's how she
9 was made aware of it.

10 MR. ALBERTI: Yeah, but it's not in the
11 video. I mean, you would not have, would you
12 have done it before he showed up? Before you
13 encountered him would you have done that?

14 MR. CARR: No, sir.

15 MR. ALBERTI: Okay, you didn't do it
16 before. You would have had to do it when? When
17 did you do it?

18 MR. CARR: I -- it could have been when
19 he walked by me as he was in the hallway. Like I
20 said there's no video camera in that hallway.

1 Because this interaction between me and Mr.
2 Stewart was only five to ten seconds long. He
3 walked --

4 MR. ALBERTI: Ah, but we don't have any
5 video of the hallway do we?

6 MR. CARR: No.

7 MR. ALBERTI: All right, thank you. I
8 have no further questions.

9 MR. SHORT: I have one followup on that.

10 CHAIRPERSON ANDERSON: Yes, Mr. Short.

11 MR. SHORT: Investigator Brashears
12 testified that you stop him every time he comes
13 also. You tell him he has to wait and he had to
14 walk around you also. Is that true?

15 MR. CARR: No sir. I've never physically
16 stopped anyone. I just ask them if they wouldn't
17 mind waiting for a manager to come meet them.
18 They have more than the right to walk in if they
19 want to, if they have a badge visible.

20 MR. SHORT: I'm glad you said that. They

1 have more than a right to come in. So, you know
2 the law.

3 MR. CARR: I can't repeat any of it, no.

4 MR. SHORT: Okay, but you know the law.

5 MR. CARR: Yes, sir. .

6 MR. SHORT: The law says you can't make
7 them -- you can't even question or ask them, once
8 they identify themselves, to wait. You can't do
9 that after they identify themselves, is that
10 correct?

11 MR. BIANCO: I'M going to object as to
12 the instruction on the law. We know that it is
13 an accurate statement of the law and my clients
14 know that.

15 CHAIRPERSON ANDERSON: Sustained.

16 MR. SHORT: Well, I'll just say this.
17 You work the door for an alcoholic beverage
18 controlled business, correct?

19 MR. CARR: Yes, sir. .

20 MR. SHORT: What do you know about ABRA

1 rights and rules when it comes to your duty at
2 the door?

3 MR. CARR: Only what my management has
4 provided with me and they provide, they asked us
5 every time there's an ABC manager -- or an ABC
6 officer on the property that we notify the
7 manager on duty and that we ask them to please
8 wait and then we hand them off to the ABC manager
9 and that's the end of our duty.

10 MR. SHORT: So, it's your testimony that
11 your investigator who came to you that night
12 never showed you an ID.

13 MR. CARR: No sir, he never --

14 MR. SHORT: Yet you got on the radio and
15 called and said "I have an ABRA person here at
16 the front door."

17 MR. CARR: Yes.

18 MR. SHORT: So, you believed he was ABRA
19 then. You didn't see an ID but you called and
20 notified everybody he was at the door.

1 MR. CARR: He could have been --

2 MR. SHORT: Excuse me?

3 MR. CARR: I notified them that yes,
4 there was a -- there was somebody standing
5 outside --

6 MR. SHORT: But you never saw an ID.

7 MR. CARR: No, sir.

8 MR. SHORT: So why did you do that?

9 MR. CARR: Because he claimed that he was
10 ABC and I've never heard anyone use that as an
11 excuse to get into a bar without showing an ID.
12 So, when someone says that they're with ABC I
13 respect that so I -- my duty is to let the
14 manager on duty know that there is someone that's
15 an ABC officer there. And if they're not, then
16 we can move forward from there. My job is to
17 notify the manager on duty that there's an ABC --

18 MR. SHORT: My last question.

19 MR. CARR: Yes, sir.

20 MR. SHORT: Investigator brashears says

1 he comes to your club on a regular basis and
2 every time he comes you stop him, you impede him,
3 before he's allowed to go into the club. Is that
4 true?

5 MR. BIANCO: I'm going to object to the
6 characterization. Mr. Brashears testimony speaks
7 for itself.

8 CHAIRPERSON ANDERSON: Sustained.

9 MR. SHORT: I have no further questions.

10 CHAIRPERSON ANDERSON: Thank you. Mr.
11 Rivero, do you have questions?

12 MR. RIVERO: You testified that sometimes
13 it can get a little hectic out front when there's
14 a line of people.

15 MR. CARR: Mm hmm.

16 MR. RIVERO: That night was there a large
17 crowd inside?

18 MR. CARR: It was a Saturday night and
19 usually on Saturdays we have a pretty decent
20 count, yes. I guess, I was at the front door, so

1 we had -- like I said there was a lot of
2 [inaudible] people.

3 MR. RIVERO: But at some point you were
4 inside the establishment because you testified
5 you led investigator Stewart to your manager.

6 MR. CARR: Yes, sir.

7 MR. RIVERO: Right? Okay. And it being
8 a Saturday possibly there was a crowd in that
9 room?

10 MR. CARR: Possibly.

11 MR. RIVERO: Okay, and so that -- and
12 again when you were standing there -- you didn't
13 make this clear, so I just want to clarify --
14 since you were following investigator Stewart
15 your back was to the hallway out of which you
16 came, right?

17 MR. CARR: My back at that point if I was
18 -- when I was by Mr. Stewart, my back would have
19 been to the door leading to the outside.

20 MR. RIVERO: From where you came

1 originally.

2 MR. CARR: Yeah, my back would have been
3 behind where I came from, yes.

4 MR. RIVERO: Correct. The entrance would
5 have been behind you.

6 MR. CARR: Yes, sir.

7 MR. RIVERO: Okay, and in a crowded room
8 it's possible that people would walk into the
9 inside of the establishment behind you, you
10 wouldn't see them, right?

11 MR. CARR: I don't -- I would have my
12 back to them.

13 MR. RIVERO: Correct. So, it's possible
14 that the investigators, the other investigator
15 who you recognized could have entered, been in
16 the room, and you just didn't see him because you
17 don't have eyes in the back of your head.

18 MR. CARR: That's a possibility.

19 MR. RIVERO: Thank you, no further
20 questions.

1 CHAIRPERSON ANDERSON: Mr. Bianco?

2 MR. BIANCO: Nothing.

3 CHAIRPERSON ANDERSON: All right. Mr.
4 Carr you're still under oath. Please do not
5 discuss the nature of your testimony you and you
6 with any of the other witnesses until this case
7 is closed, so you are prohibited from discussing
8 your testimony or the nature of your testimony
9 with anyone else who will be called to testify in
10 this case, okay?

11 MR. CARR: Yes, sir.

12 CHAIRPERSON ANDERSON: So, you're
13 excused. Mr. Bianco, one of the reasons why you
14 have some, although everyone has had my full
15 attention, but I'm looking at our schedule and
16 it's 3:34. We have at 2:30 we have a 3:30 and we
17 have 4:30 and we're an hour behind in our
18 schedule. I know that the proffer that was made
19 before that you had another witness to testify
20 we're probably going to come back for so how do

1 you proceed, how do you -- tell me how you want
2 to proceed, can we recess now or do you want to
3 put on some more witnesses but some timeline so I
4 can plan.

5 MR. BIANCO: I understand. And I think
6 it looks we're going to go into a second day
7 anyway, I think it'll be okay to handle most of
8 whatever we have left on that day, however we
9 have one more witness, our manager, who Ms.
10 Hamilton who no longer works at the
11 establishment. She has relocated to Florida so
12 we flew her in for this. So, I'd very much like
13 to get any testimony we have for her out of the
14 way and we don't have any video for her, it's
15 just going to be her oral testimony and then
16 cross and then we'll set it over for another
17 date.

18 CHAIRPERSON ANDERSON: That's fine. Yes,
19 that's fine. That's one of the reasons I was
20 asking how you want to do it. So, we'll have one

1 more witness and then we will recess this hearing
2 until further notice and I know that -- just to
3 let the other parties know -- that we will --
4 we're an hour behind but you're the next case,
5 and you know who I'm talking to. Your -- your
6 case will be called as soon as this witness
7 testifies, so probably in another 20-25 minutes.

8 CHAIRPERSON ANDERSON: You can call your
9 next witness, please. Raise your right hand,
10 please. Do you swear or affirm to tell the truth
11 and nothing but the truth?

12 MS. HAMILTON: Yes.

13 CHAIRPERSON ANDERSON: Have a seat
14 please. And sign your name on the -- there's a
15 sign-in sheet there. Can you please sign your
16 name? Your witness, sir.

17 MR. BIANCO: Could you state your name
18 for the record and spell your last name, please.

19 MS. HAMILTON: Keisa Hamilton, H-A-M-I-L-
20 T-O-N.

1 MR. BIANCO: Ms. Hamilton, where were you
2 working on September 5th, 2015?

3 MS. HAMILTON: I was the floor manager at
4 Madam's Organ.

5 MR. BIANCO: And how long had you had
6 that job?

7 MS. HAMILTON: As the manager about 10
8 years.

9 MR. BIANCO: And do you still have that
10 job?

11 MS. HAMILTON: No.

12 MR. BIANCO: Was there a regular shift
13 that you worked as floor manager?

14 MS. HAMILTON: Well, once a month at
15 least, floor manager, but I was the manager
16 behind the bar as well.

17 MR. BIANCO: What's the difference
18 between the two?

19 MS. HAMILTON: One, the floor manager,
20 you're rotating throughout the bar.

1 MR. BIANCO: Are you still working at
2 Madam's Organ?

3 MS. HAMILTON: No.

4 MR. BIANCO: Why not?

5 MS. HAMILTON: I live in Florida.

6 MR. BIANCO: When did you move?

7 MS. HAMILTON: About two weeks after the
8 15th.

9 MR. BIANCO: Of September?

10 MS. HAMILTON: Yes.

11 MR. BIANCO: And were you working as
12 floor manager approximately 1:40 a.m. on
13 September the 5th?

14 MS. HAMILTON: Yes.

15 MR. BIANCO: And could you describe in
16 your own words what occurred that day?

17 MS. HAMILTON: I had just received a drop
18 of money from the door and was on my way to the
19 office to turn the money in and I got a call --

20 MR. ALBERTI: Could you speak up a little

1 bit, it's important that I hear you.

2 MS. HAMILTON: I received a call on the
3 walkie-talkie that the ABC manager was there, so
4 I was nearby and went up towards the door. When
5 I was getting to the door I saw my doorman
6 talking to an older black man that seemed to not
7 listen to what he was saying and the door guy was
8 against the door trying to communicate with him,
9 and he still was hustling and coming towards --
10 to the bar, and at that point, my doorman, Mr.
11 Carr, said "here she is. Here's the manager."
12 And that's when I realized he was the ABC guy
13 because he pulled out his badge and this was
14 while we were inside the establishment and I
15 said, "hi, I'm the manager, Keisa." And he was
16 like, "ah, they're impeding me from going into
17 the bar."

18 MR. BIANCO: Ms. Hamilton, let me take a
19 step back and walk you through this a little bit
20 so we make sure that we all have an understanding

1 of specifically what happened. You said you were
2 making a cash drop, so where were you getting the
3 cash from?

4 MS. HAMILTON: The door.

5 MR. BIANCO: The door. And who had the
6 cash at the door?

7 MS. HAMILTON: Dan Carr.

8 MR. BIANCO: Okay, so did you have to go
9 outside to get it?

10 MS. HAMILTON: Yes.

11 MR. BIANCO: Okay, and what conversation
12 did you have with Mr. Carr at that time?

13 MS. HAMILTON: Nothing unusual, just "do
14 you need to make a drop? Would you like some
15 change?" Then I went inside.

16 MR. BIANCO: Okay and where did you go
17 once you got inside with the cash?

18 MS. HAMILTON: Towards the office.

19 MR. BIANCO: And where's the office
20 located inside the establishment?

1 MS. HAMILTON: Towards the rear basement
2 area.

3 MR. BIANCO: Okay, so you walk in -- you
4 walk into the establishment and there's a stage
5 on your right, is that correct?

6 MS. HAMILTON: Correct.

7 MR. BIANCO: And there's a bar on your
8 left.

9 MS. HAMILTON: Correct.

10 MR. BIANCO: And then there's an open
11 room.

12 MS. HAMILTON: Yes.

13 MR. BIANCO: And where do you go in
14 relation to the bar to get to the office?

15 MS. HAMILTON: Past the bar, through the
16 open room, with a few people in there, and then
17 down the stairs towards the office.

18 MR. BIANCO: Okay. Where were you at the
19 time you got the call that an ABC officer was --

20 MS. HAMILTON: At the door of the office.

1 MR. BIANCO: Okay. So, do you know who
2 called you and told you that somebody from ABC
3 was there?

4 MS. HAMILTON: I could tell by the voice
5 that it was Dan.

6 MR. BIANCO: Okay. But there's nothing
7 on the particular communication device that you
8 use that tells you who is calling?

9 MS. HAMILTON: No.

10 MR. BIANCO: It's just a walkie talkie,
11 pretty much.

12 MS. HAMILTON: Correct.

13 MR. BIANCO: And when you got the call
14 that someone from the ABC was there, what did you
15 do?

16 MS. HAMILTON: I went back up the stairs
17 towards the door.

18 MR. BIANCO: Okay, and you didn't go in
19 the office and make your cash drop first?

20 MS. HAMILTON: No.

1 MR. BIANCO: Okay, and --

2 MS. HAMILTON: I put the money in my
3 pocket so I knew where it was exactly.

4 CHAIRPERSON ANDERSON: I can't hear
5 anything up there. Both of you need to hold your
6 --

7 MS. HAMILTON: I put the money in my
8 pocket so it was safe.

9 MR. BIANCO: Why don't we have you go
10 over to the stand, it might be easier.

11 CHAIRPERSON ANDERSON: All right. Also
12 Mr. Bianco sometimes you tend to trail off so you
13 also need to --

14 MR. BIANCO: All right. I'm going to
15 move the mic a little closer.

16 CHAIRPERSON ANDERSON: And you can also
17 speak in the microphone, sir.

18 MR. BIANCO: Okay. Better? Okay. So,
19 you put the cash in your pocket and then you
20 headed back towards the door. Was that the last

1 piece of your testimony?

2 MS. HAMILTON: Yes.

3 MR. BIANCO: And as you were walking
4 towards the door did you see something happening
5 at the door?

6 MS. HAMILTON: Yes, I saw. Yes. I saw
7 my doorman, Dan, holding the door open with an
8 older man that I'd never seen before that was not
9 really listening to what my doorman was saying
10 and seemed like he was being, I guess combative
11 in a way.

12 MR. BIANCO: How far away were you from
13 the door at that point?

14 MS. HAMILTON: I was closest to the stage
15 and in between the stage and the bar.

16 MR. BIANCO: Was there a band playing?

17 MS. HAMILTON: Yes.

18 MR. BIANCO: So, were you able to hear
19 what they were saying?

20 MS. HAMILTON: Not everything.

1 MR. BIANCO: Okay. What did you hear?

2 MS. HAMILTON: "Here she is, this is my
3 manager."

4 MR. BIANCO: Okay. Before that were you
5 able to hear anything in terms of the
6 conversation going on between Dan and the other
7 person?

8 MS. HAMILTON: No.

9 MR. BIANCO: And did you later learn that
10 the other person was investigator Stewart?

11 MS. HAMILTON: Yes.

12 MR. BIANCO: Okay. And when did you
13 learn that that person was investigator Stewart?

14 MS. HAMILTON: Once he was inside and
15 pulled out his badge and identified himself.

16 MR. BIANCO: Okay. Where did he pull his
17 badge from?

18 MS. HAMILTON: Inside of his shirt.

19 MR. BIANCO: Okay. And when he was
20 handed off to you, what is the first thing that

1 he said to you?

2 MS. HAMILTON: He said you impeded entry.

3 MR. BIANCO: And what did you say in
4 response?

5 MS. HAMILTON: Well we're inside.

6 Can you repeat that? What did you say to
7 him?

8 MS. HAMILTON: "We're inside."

9 MR. BIANCO: Okay, what did you mean by
10 "but we're inside"?

11 MS. HAMILTON: He is in the establishment
12 and from thereon what else did we need to do was
13 what -- why are you here -- like let's go on with
14 the investigation that you're here for, because
15 you are inside of the establishment, no one is
16 impeding you.

17 MR. BIANCO: And as you approach the door
18 you see your doorman, Dan, impeding entry?

19 MS. HAMILTON: No, he's behind him.

20 MR. BIANCO: Was Dan's back to you at any

1 point?

2 MS. HAMILTON: No.

3 MR. BIANCO: Was Dan moving to block him
4 from getting inside?

5 MS. HAMILTON: No.

6 MR. BIANCO: After you responded to
7 investigator Stewart "but we're inside" what's
8 the next thing that happened?

9 MS. HAMILTON: He asked -- he wanted
10 Dan's ID and he wanted to have him arrested.

11 MR. BIANCO: Okay. How do you know that?

12 MS. HAMILTON: Because he was yelling it.

13 MR. BIANCO: Who was he yelling it at?

14 MS. HAMILTON: I guess towards me, he was
15 just kind of motioning that he wanted to have
16 that happen. And I said okay, and he said he
17 wanted to see his ID, and I said what for again.
18 He said, "he's impeding me from entering" so then
19 I said to Dan, "okay well go ahead and get your
20 license and I'll talk to him about what he's here

1 for."

2 MR. BIANCO: Okay. And did this
3 discussion happen inside or outside of the
4 establishment?

5 MS. HAMILTON: Inside.

6 MR. BIANCO: Okay. And is there -- did
7 there come a time when you went back outside of
8 the establishment?

9 MS. HAMILTON: Yes, that's when he was
10 going to flag down an officer.

11 MR. BIANCO: Okay. And when in relation
12 to your first conversation with Mr. Stewart did
13 that happen?

14 MS. HAMILTON: When he was flagging down
15 an officer?

16 MR. BIANCO: Right.

17 MS. HAMILTON: That was as he was walking
18 out of the door.

19 MR. BIANCO: Okay, and when -- did that
20 happen immediately after your conversation with

1 him or did an investigation -- was an
2 investigation conducted first before leaving the
3 establishment?

4 MS. HAMILTON: It was immediately after
5 his leaving the establishment.

6 MR. BIANCO: So, how long were you in the
7 establishment speaking with investigator Stewart?

8 MS. HAMILTON: Maybe 10 seconds.

9 MR. BIANCO: Okay. And then you
10 proceeded back outside?

11 MS. HAMILTON: Yes.

12 MR. BIANCO: Now, when you saw
13 investigator Stewart and Dan come through the
14 door did you see any other ABRA investigators
15 coming in behind him?

16 MS. HAMILTON: No. I didn't know who he
17 was.

18 MR. BIANCO: Okay. Did you see any ABRA
19 investigators that you did know?

20 MS. HAMILTON: After I went outside, yes.

1 MR. BIANCO: Okay, so do you know
2 investigator Brashears?

3 MS. HAMILTON: Yes.

4 MR. BIANCO: And you know investigator
5 Fox?

6 MS. HAMILTON: Yes.

7 MR. BIANCO: And were they inside of the
8 establishment at the time you were meeting with
9 investigator Stewart?

10 MS. HAMILTON: No.

11 MR. BIANCO: When did you see them?

12 MS. HAMILTON: When I went outside after

13 --

14 MR. BIANCO: After the ten-second
15 conversation that you had with Mr. Stewart?

16 MS. HAMILTON: Correct.

17 MR. BIANCO: Okay, so what happened when
18 you got outside?

19 MS. HAMILTON: Dan went inside and got
20 his I'd, the investigator Stewart went up the

1 street and flagged down an officer. I stayed at
2 the door because we needed to have two people on,
3 and he found an officer up the street, I'm
4 assuming Kennedy, I don't know all the names. He
5 asked for my manager's license and my ID and
6 didn't ask any other questions except for
7 information.

8 MR. BIANCO: Okay, and after that did you
9 have occasion to speak with Officer Kennedy for
10 any reason?

11 MS. HAMILTON: After that we, I guess,
12 followed through with the reason he was there and
13 that's to walk through and I guess, I'm not even
14 quite sure exactly what he was really there for
15 but we did the typical walk-through of the bar
16 that most agents would do.

17 MR. BIANCO: Did you talk to the police
18 officer?

19 MS. HAMILTON: Just to give him my
20 license.

1 MR. BIANCO: Did he ask you any questions
2 about what happened?

3 MS. HAMILTON: No.

4 MR. BIANCO: And at what point did you go
5 back into the establishment?

6 MS. HAMILTON: I guess it was after the
7 commotion outside with something happening across
8 the street. Most of the police officers who were
9 on the side of the street with us weren't over
10 there, and then that was when he was like "okay,
11 let's follow through."

12 MR. BIANCO: Okay. Who was the --

13 MS. HAMILTON: Dan was talking to another
14 officer or I guess they were looking at his ID,
15 I'm not sure, I was iknside.

16 MR. BIANCO: Okay, and what was the
17 commotion going on across the street at that
18 time?

19 MS. HAMILTON: It was rumored that a
20 bottle - I heard a bottle and apparently someone

1 had thrown a bottle and there was a fight across
2 the street.

3 MR. BIANCO: And the officers that were
4 in front of the establishment left to respond
5 across the street?

6 MS. HAMILTON: Yes.

7 MR. BIANCO: And when you went back into
8 the establishment for the purpose that the
9 investigators were there, what was the purpose
10 that the investigators were there, what did you
11 learn?

12 MS. HAMILTON: Well, he did pull out a
13 clicker to count how many people were there.
14 That's what I knew that he was there for because
15 of the certificate of occupancy, displayed.

16 MR. BIANCO: And did he ask you how many
17 people were there?

18 MS. HAMILTON: Yes.

19 MR. BIANCO: Did you know?

20 MS. HAMILTON: No.

1 MR. BIANCO: Why not?

2 MS. HAMILTON: Because I'm not the door
3 person.

4 MR. BIANCO: Okay. Is that information
5 that the door person has?

6 MS. HAMILTON: Yes.

7 MR. BIANCO: Do you employ a clicker at
8 the door?

9 MS. HAMILTON: Yes.

10 MR. BIANCO: Why?

11 MS. HAMILTON: To know how many people
12 are in the establishment.

13 MR. BIANCO: Does that also help you keep
14 track of the cash that a doorman would have in
15 his hand?

16 MS. HAMILTON: That does help, yes.

17 MR. BIANCO: Okay. And who came back
18 into the establishment to conduct this
19 investigator.

20 MS. HAMILTON: All three of them

1 eventually came in.

2 MR. BIANCO: And by all three you mean
3 Stewart, Fox and --

4 MS. HAMILTON: Brashears, yeah.

5 MR. BIANCO: Okay. And who went where
6 when they got inside? How did they --

7 MS. HAMILTON: I was with Stewart and we
8 went through the first floor where the band was.
9 We also went to the second floor where the DJ
10 was. And we went to the roof briefly.

11 MR. BIANCO: Okay and where were
12 Brashears and Fox?

13 MS. HAMILTON: They went to the mezzanine
14 and I guess the back entrance back stairs.

15 MR. BIANCO: Okay. And what was the
16 result of the investigation as far as you could
17 tell at that time?

18 MS. HAMILTON: That we I guess did not
19 have the right paperwork which was -- they were
20 there on Thursday so we had a court of appeals

1 form that I showed him because we'd gone through
2 this already on Thursday, and possibly the Sunday
3 before, you know, a few times, but --

4 MR. BIANCO: So, let's go back to
5 Thursday for a minute. That's Thursday the 3rd
6 of September 2015?

7 MS. HAMILTON: Yes.

8 MR. BIANCO: Were you the manager on duty
9 on Thursday, the 3rd?

10 MS. HAMILTON: Yes.

11 MR. BIANCO: And this was an ABRA
12 investigation on that day?

13 MS. HAMILTON: Yes.

14 MR. BIANCO: How did you learn about it?

15 MS. HAMILTON: The doorman.

16 MR. BIANCO: Okay, so describe what
17 happened on that day.

18 MS. HAMILTON: I was told that there was
19 an ABRA person. I had someone watch my bar and
20 went downstairs and saw the I guess her name is

1 Brashears. What is the woman's name?

2 MR. BIANCO: Fox.

3 MS. HAMILTON: Yes, I saw her downstairs.
4 She waited very patiently for me and I showed her
5 our documents. There were no issues. She was
6 very nice.

7 MR. BIANCO: And that occurred on --

8 MS. HAMILTON: Thursday --

9 MR. BIANCO: The 3rd of September.

10 MS. HAMILTON: Yes.

11 MR. BIANCO: Investigator Stewart wasn't
12 there on that day?

13 MS. HAMILTON: No.

14 MR. BIANCO: Okay.

15 MS. HAMILTON: I had never seen him
16 before.

17 MR. BIANCO: Did you get a call on your
18 radio that ABC was there?

19 MS. HAMILTON: Yes.

20 MR. BIANCO: Okay. Do you know who

1 called you at that time?

2 MS. HAMILTON: Dan. He's on Thursdays as
3 well.

4 MR. BIANCO: Did you recognize his voice
5 on that night as well?

6 MS. HAMILTON: Yes.

7 MR. BIANCO: And, when you got down
8 there, was there -- did the investigator raise
9 any issue with you about being impeded?

10 MS. HAMILTON: No. She was inside at the
11 bar.

12 MR. BIANCO: You also just testified that
13 they were in the previous Sunday as well.

14 MS. HAMILTON: They were in, like, not
15 the week before, they'd been in a few times while
16 I was managing before that.

17 MR. BIANCO: And what was the issue on
18 that day?

19 CHAIRPERSON ANDERSON: Okay I'm going to
20 have to take issue at this point. We're shifting

1 the case back into occupancy. This is not an
2 occupancy case. The government did not charge
3 occupancy. Questions over and over about
4 occupancy cause delays and are irrelevant.

5 CHAIRPERSON ANDERSON: Mr. Bianco?

6 MR. BIANCO: Questions about the
7 establishment's procedure for admitting ABC
8 investigators without objection from the
9 investigator are totally relevant to this
10 particular proceeding where the --

11 CHAIRPERSON ANDERSON: I don't think
12 that's the question that's being asked. The
13 objection isn't occupancy. I don't have a
14 problem with the way you're phrasing it, but if
15 it's on occupancy, then the objection is
16 sustained. So, which one is it?

17 MR. BIANCO: On the previous, in the
18 previous week when you were aware of another ABRA
19 investigation, correct?

20 MS. HAMILTON: Yes.

1 MR. BIANCO: Was any -- how did you
2 become aware of the investigation on that day?

3 MS. HAMILTON: Say that one more time.

4 MR. BIANCO: The previous week. So, we
5 talked about the 5th, we talked about the 3rd,
6 you testified that the previous week there was an
7 ABRA investigation as well. How did you become
8 aware that there was an ABRA investigation on
9 that day?

10 MS. HAMILTON: They asked for our
11 certificate of occupancy.

12 MR. BIANCO: Were you informed by the
13 doorman that ABRA was there?

14 MS. HAMILTON: Yes.

15 MR. BIANCO: Okay. And did that call
16 come over the radio?

17 MS. HAMILTON: Yes.

18 MR. BIANCO: And did you know who that
19 call came over the radio from?

20 MS. HAMILTON: I recognized his voice.

1 It was Dan Carr.

2 MR. BIANCO: Okay. And when you got to
3 the front door did you recognize who the ABRA
4 investigators were?

5 MS. HAMILTON: I had -- she was -- I
6 never even got to the front door. She was
7 already inside at a table nearby leaning forward.

8 MR. BIANCO: And when you met her did she
9 raise any objection to you about the way her
10 arrival was handled?

11 MS. HAMILTON: Not at all.

12 MR. BIANCO: Did she claim that Dan
13 impeded her access?

14 MS. HAMILTON: Not at all.

15 MR. BIANCO: Prior to investigator
16 Stewart raising that issue at the door had any
17 ABRA investigator ever complained to you that Dan
18 Carr impeded access to the premises?

19 MS. HAMILTON: I -- no. Never.

20 MR. BIANCO: In the period of May 2015

1 through September 2015 which was your last month
2 of employment there?

3 MS. HAMILTON: Yes.

4 MR. BIANCO: Approximately how many times
5 were you visited by ABRA?

6 MS. HAMILTON: I have lost count,
7 honestly.

8 MR. BIANCO: Would you be able to say
9 generally either weekly or daily or biweekly or
10 weekly or --

11 MS. HAMILTON: Weekly to biweekly.

12 MR. BIANCO: And during any of those
13 visits in that 3 to 4 month period did any
14 investigators raise any issues with you about not
15 being allowed access.

16 MS. HAMILTON: Never.

17 MR. BIANCO: Thank you. Mr. Rivero's
18 going to have some questions and then probably
19 the board.

20 CHAIRPERSON ANDERSON: Your witness, Mr.

1 Rivero.

2 MR. RIVERO: Thank you. Ms. Hamilton you
3 testify that on the morning of September 5th when
4 you were advised -- you hadn't quite made it to
5 the office with the cash when you were advised by
6 Mr. Carr that there was ABRA at the door, so you
7 turned around and you went in the direction of
8 the door, right? That was your testimony.

9 MS. HAMILTON: Correct. I was not in the
10 office, I was by the office door.

11 MR. RIVERO: You approached the door
12 because that's where you thought ABRA was.

13 MS. HAMILTON: Right.

14 MR. RIVERO: The front door of the
15 establishment, then you clarified. Okay. You
16 testified that you saw Dan Carr and investigator
17 Stewart who you recognized later as investigator
18 Stewart in the hallway?

19 MS. HAMILTON: No, past the hallway
20 actually, at the door, two swinging doors.

1 MR. RIVERO: Okay, let's clarify what we
2 mean by doors. There's a front door that leads
3 to the sidewalk, the very front door.

4 MS. HAMILTON: Correct.

5 MR. RIVERO: Are there any other doors
6 beyond that one?

7 MS. HAMILTON: Yes.

8 MR. RIVERO: Okay, what are those other
9 doors you're talking about? That's not the front
10 door.

11 MS. HAMILTON: Inside the bar pretty
12 much, inside the doorway at the top of the
13 stairs.

14 MR. RIVERO: With these second pair of
15 doors, are they in any way connected to this
16 hallway at all? Or somewhere else?

17 MS. HAMILTON: They're a doorway from the
18 hallway.

19 MR. RIVERO: So, these swinging doors are
20 at the end of the hallway?

1 MS. HAMILTON: I wouldn't call it a
2 hallway.

3 MR. RIVERO: Okay, what would you call
4 it.

5 MS. HAMILTON: A corridor?

6 MR. RIVERO: A corridor, okay. So, it's
7 not a hallway --

8 MS. HAMILTON: A very small entryway.

9 MR. RIVERO: Okay. And how small is
10 small? What's the length of it?

11 MS. HAMILTON: I would say about five
12 feet.

13 MR. RIVERO: Okay, five feet, okay. At
14 the end of this five feet is where the swinging
15 doors are located?

16 MS. HAMILTON: Yes.

17 MR. RIVERO: Okay. Now, if they're
18 swinging doors, does that mean they're closed?

19 MS. HAMILTON: They're, they were open
20 when I got there because Dan was holding them

1 open.

2 MR. RIVERO: Okay, so Dan Carr was
3 holding open the swinging doors?

4 MS. HAMILTON: Yes.

5 MR. RIVERO: And those are the doors at
6 the end of that five-foot hallway.

7 MS. HAMILTON: Yes.

8 MR. RIVERO: So we're not talking about
9 the front door in front of the establishment that
10 leads to the sidewalk.

11 MS. HAMILTON: No.

12 MR. RIVERO: Okay. Good. Thank you for
13 clarifying that. So, he was holding those doors
14 open. Are you familiar with the cameras that
15 area placed at the front of the establishment?

16 MS. HAMILTON: Yes, I know they're there,
17 yes.

18 MR. RIVERO: Would the cameras that are
19 in place at the front of the establishment show
20 the swinging doors that you saw Mr. Carr holding

1 open for Mr. Stewart?

2 MS. HAMILTON: No.

3 MR. RIVERO: Okay. From your vantage
4 point when you saw Mr. Carr holding open the
5 doors for Mr. Stewart, you weren't able to see
6 this front door that leads to the sidewalk were
7 you?

8 MS. HAMILTON: No.

9 MR. RIVERO: Okay. Thanks for clarifying
10 that. You testified that you went outside with
11 Mr. Stewart and that there was someone who asked
12 you for your license and ID. Do you mean your
13 manager's license?

14 MS. HAMILTON: Yes.

15 MR. RIVERO: Okay. Who was it who asked
16 you for those two things?

17 MS. HAMILTON: An officer, uniformed
18 officer.

19 MR. RIVERO: An MPD officer?

20 MS. HAMILTON: Mm hmm.

1 MR. RIVERO: Okay. Now was this an MPD -
2 - you also testified that Mr. Stewart went to get
3 an officer, and you stayed there because you had
4 to be I think you said. Was the officer who
5 asked for these two things an officer that Mr.
6 Stewart procured? Or someone who randomly walked
7 by?

8 MS. HAMILTON: Another officer who was
9 approaching the scene, or who was involved in the
10 scene after Mr. Stewart approached I think it was
11 officer Kennedy.

12 MR. RIVERO: Okay, so it was officer
13 Kennedy who asked you for those.

14 MS. HAMILTON: No. There was another
15 officer that had been --

16 MR. RIVERO: A separate officer.

17 MS. HAMILTON: Yes.

18 MR. RIVERO: Okay. And that separate
19 officer, you saw Mr. Stewart get him? Because
20 you testified that Mr. Stewart got one of the

1 officers and I just want to know what officer he
2 got and what happened.

3 MS. HAMILTON: He got officer Kennedy.

4 MR. RIVERO: Okay.

5 MS. HAMILTON: Kennedy took Dan's ID.

6 MR. RIVERO: Okay.

7 MS. HAMILTON: Other officers approached
8 and then eventually became -- another officer
9 came and got my ID to verify that there was an
10 ABC manager.

11 MR. RIVERO: So it was a separate -- it
12 wasn't Kennedy, it was a separate officer. Okay.
13 No further questions.

14 CHAIRPERSON ANDERSON: Just relax a
15 minute, Ms. Hamilton, you said you worked at the
16 for ten years is that correct?

17 MS. HAMILTON: I worked there for 11.

18 CHAIRPERSON ANDERSON: I'm sorry, 11
19 years. And how long were you the ABC manager
20 there?

1 MS. HAMILTON: Ten.

2 CHAIRPERSON ANDERSON: Ten years. And so
3 what procedures does the establishment utilize
4 when an ABRA investigator showed up at the front
5 door?

6 MS. HAMILTON: The doorman just announces
7 to the manager on duty that ABRA's here because
8 we need to identify ourselves as the licensed
9 manager and we have access to the licenses that
10 are displayed.

11 CHAIRPERSON ANDERSON: So, does the
12 doorman ask the person to wait for the ABC
13 manager to come down to meet the person at the
14 door or does the doorman allow the investigator
15 to come right in and meet you in the
16 establishment? Which one is it?

17 MS. HAMILTON: Usually, the ABRA person
18 has an I'd out so the doorman knows who they are,
19 and they can wait if they want but they are free
20 to go inside if they'd like. It's just sometimes

1 it's easier with the crowd for the manager to
2 present themselves to the ABRA officer.

3 CHAIRPERSON ANDERSON: You said usually -
4 - usually the ABRA investigator has an ID.

5 MS. HAMILTON: That was the only time
6 that I've seen someone not have an ID.

7 CHAIRPERSON ANDERSON: So, in the ten
8 years you've been a manager -- you've been at the
9 establishment, how many times in your estimation
10 did someone show up at the door to say they were
11 an ABRA investigator and they actually weren't.

12 MS. HAMILTON: Never.

13 CHAIRPERSON ANDERSON: Never?

14 MR. ALBERTI: How many?

15 CHAIRPERSON ANDERSON: Never. All right.
16 Yes Mr. Alberti.

17 MR. ALBERTI: Good afternoon Ms. Carr.

18 MS. HAMILTON: Hamilton.

19 MR. ALBERTI: Not Ms. Carr. I'm sorry.
20 Ms. Hamilton. The names are all a jumble, I'm

1 sorry. I need a break. My apologies.

2 MS. HAMILTON: It's okay.

3 MR. ALBERTI: So, Ms. Hamilton, so you
4 saw at the swinging doors which are at one end of
5 the hallway or the vestibule or the whatever you
6 want to call it, all right? You saw Mr. Stewart
7 and Mr. Carr.

8 MS. HAMILTON: Yes.

9 MR. ALBERTI: All right. And, so what
10 happened after you saw them?

11 MS. HAMILTON: What happened after I saw
12 them?

13 MR. ALBERTI: Yeah.

14 MS. HAMILTON: Well, I -- Mr. Carr said
15 "this is your manager -- the manager, she's right
16 here.

17 MR. ALBERTI: They came into the bar
18 area.

19 MS. HAMILTON: They were -- yes.

20 MR. ALBERTI: In the hallway? It was in

1 the bar area or in the hallway?

2 MS. HAMILTON: It's in the bar area.

3 MR. ALBERTI: Okay.

4 MS. HAMILTON: Or at the bottom of the
5 stairs. So the swinging doors, it's a very small
6 area.

7 MR. ALBERTI: Right.

8 MS. HAMILTON: Is there a photograph of
9 what I'm walking about?

10 MR. ALBERTI: When you come to the
11 swinging doors, what -- what -- what's right
12 there in front of you?

13 MS. HAMILTON: There's a stairwell and an
14 upstairs. There's the stage to the right. And
15 there's a bar also next to the stairwell. So,
16 they were at the doorway where, there at the
17 bottom of the stairs.

18 MR. ALBERTI: So, they're at the doorway
19 at the bottom of the stairs, okay.

20 MS. HAMILTON: Mm hmm.

1 MR. ALBERTI: -- when you encountered
2 investigator Stewart, right? And Mr. Carr.

3 MS. HAMILTON: Yeah and I was close to
4 bar and stage which is still a close area.

5 MR. ALBERTI: So what happened next?

6 MS. HAMILTON: Mr. Carr said, "here she
7 is, the manager" and he didn't really listen to
8 anything I said. I said "hi" and he said, just
9 didn't really make eye contact with me or
10 anything and then slowly pulled out his badge and
11 said "I'm ABC" and he said, "I was impeded from
12 coming in here."

13 MR. ALBERTI: Okay.

14 MS. HAMILTON: And it's very confusing,
15 he just kind of stormed out at that point. Or
16 not stormed -- no he just seemed like he had --
17 he didn't really have respect for anybody around,
18 he just seemed very --

19 MR. ALBERTI: So what -- after he had
20 this conversation with you, what happened? He

1 walked out? You walked out? What's the --

2 MS. HAMILTON: I mean I asked him what's
3 wrong and he said he was being impeded and then
4 he said he wants to get out the guy's IDx, have
5 him arrested, stormed out.

6 MR. ALBERTI: Okay, after he said that,
7 what happened?

8 MS. HAMILTON: He went to get an officer.

9 MR. ALBERTI: And what did you do?

10 MS. HAMILTON: I stayed near the door.

11 MR. ALBERTI: You stayed near the door.

12 MS. HAMILTON: I told Dan to go inside
13 and get his ID.

14 MR. ALBERTI: You told Dan to get his ID,
15 and you stayed by the door and Mr. Stewart left.

16 MS. HAMILTON: Yes.

17 MR. ALBERTI: And where did you then talk
18 to the police officers. Was it inside, outside?

19 MS. HAMILTON: Outside.

20 MR. ALBERTI: But you --

1 MS. HAMILTON: Up the street. I had to
2 leave to talk to an officer.

3 MR. ALBERTI: When did you leave? And
4 what caused you to leave?

5 MS. HAMILTON: An officer asked me to
6 present my ID and I had to leave the premises to
7 talk to an officer.

8 MR. ALBERTI: So, you were summoned
9 outside, is that what the deal was? By whom?

10 MS. HAMILTON: A uniformed officer.

11 MR. ALBERTI: Was he -- did he signal to
12 you -- poke his head in? What did he do?

13 MS. HAMILTON: He signaled towards me.

14 MR. ALBERTI: Okay. So, how long did
15 this conversation -- how long did you talk to Mr.
16 Stewart inside? Out of curiosity.

17 MS. HAMILTON: Approximately like 15 or
18 20 seconds.

19 MR. ALBERTI: So it was real quick. I
20 mean you didn't really --

1 MS. HAMILTON: It was long enough for
2 Him to identify why he was there, he never really
3 did. He just seemed very --

4 MR. ALBERTI: Did any of the other. I'll
5 tell you, we heard testimony that there were two
6 other investigators there that night.

7 MS. HAMILTON: Mm hmm.

8 MR. ALBERTI: So, did either one of them
9 come in at that time when you first encountered
10 Mr. Stewart?

11 MS. HAMILTON: They were not in when I
12 was talking to him.

13 MR. ALBERTI: When did you first become
14 aware of them?

15 MS. HAMILTON: When they were -- when I
16 was walking outside. I recognized them from two
17 days before.

18 MR. ALBERTI: They were standing out
19 there?

20 MS. HAMILTON: They were standing at the

1 front, right.

2 MR. ALBERTI: Okay. So let's go back to
3 when you had collected money, you had collected
4 money and you were going to go deposit in the
5 office, right?

6 MS. HAMILTON: Mm hmm.

7 MR. ALBERTI: So you went towards the
8 office?

9 MS. HAMILTON: Yes.

10 MR. ALBERTI: How far did you make it?

11 MS. HAMILTON: To the door, the front
12 door of the office.

13 MR. ALBERTI: Front door of the office.
14 Where's the office?

15 MS. HAMILTON: It's near the kitchen.

16 MR. ALBERTI: And where's the kitchen?
17 Upstairs? Downstairs?

18 MS. HAMILTON: Down about four or five
19 stairs past the front bar.

20 MR. ALBERTI: Towards the back of the

1 establishment?

2 MS. HAMILTON: Yes.

3 MR. ALBERTI: Or it's the back of the
4 establishment?

5 MS. HAMILTON: Mm hmm. It's through the
6 dance floor where people are --

7 MR. ALBERTI: That's where you got the
8 call from Dan.

9 MS. HAMILTON: Yes.

10 MR. ALBERTI: All right. And you made it
11 to the front and first saw them at the swinging
12 doors, correct?

13 MS. HAMILTON: Yes.

14 MR. ALBERTI: So, presumably Dan would
15 have called you -- when would he have called you?
16 Before --

17 MS. HAMILTON: Probably right when the
18 officer was walking through the front door.

19 MR. ALBERTI: Right when he first, right
20 at the front door?

1 MS. HAMILTON: Yes.

2 MR. ALBERTI: All right.

3 MS. HAMILTON: I was not there.

4 MR. ALBERTI: And you say that because?

5 MS. HAMILTON: That's an assumption. I'm
6 not sure.

7 MR. ALBERTI: Why? Why would you make
8 that assumption?

9 MS. HAMILTON: Because it was that fast.
10 I got up there in a fast amount of time after he
11 called because I was close by.

12 MR. ALBERTI: Thank you. I have nothing
13 further.

14 CHAIRPERSON ANDERSON: Ms. Miller.

15 MS. MILLER: Good afternoon.

16 MS. HAMILTON: Hello.

17 MS. MILLER: Thank you for coming all the
18 way from Florida.

19 MS. HAMILTON: Thank you.

20 MS. MILLER: At least we have weather

1 that's -- but you're inside. Are you -- do you
2 have any memory of anyone on your staff
3 apologizing to Mr. Stewart?

4 MS. HAMILTON: I said sorry, just because
5 I was trying to be cordial with him.

6 MS. MILLER: Can you elaborate on that?

7 MS. HAMILTON: I was just saying I'm
8 sorry for him misunderstanding and things being
9 as chaotic. There was -- I didn't see any reason
10 for them to be that chaotic, just trying to be
11 nice to him, calm things down, because he didn't
12 seem to want to calm down.

13 MS. MILLER: What would you characterize
14 as chaotic?

15 MS. HAMILTON: Not listening, not
16 understanding that no one was trying to argue
17 with him, he seemed to be creating an argument.

18 MS. MILLER: He seemed to be what?

19 MS. HAMILTON: Creating an argument. And
20 we were just trying to stay calm and keep the

1 establishment calm and keep moving.

2 MS. MILLER: And can you elaborate just a
3 little bit what you mean by he was creating
4 arguments? Is that what you said? Arguments.

5 MS. HAMILTON: Just every time we would
6 say anything he would respond negatively.

7 MS. MILLER: Can you give an example of
8 what you mean?

9 MS. HAMILTON: Well, I identified myself.
10 He was just like, "I'm being impeded. I'm sorry.
11 No, we -- we're inside. What's the reason for
12 you being here? He said "I want to see this
13 man's ID." I said well, why? He like just
14 started yelling and then stormed away. Anytime I
15 was nice to him he just seemed like he didn't
16 want to hear it. Just kind of went through the
17 crowd and didn't really respect anybody else's
18 space, just kind of shoved his way through and
19 just didn't seem like a very nice person.

20 MS. MILLER: Did you -- well, the first

1 time you saw investigator Stewart that evening,
2 he was already at the front door or moving
3 through the front door?

4 MS. HAMILTON: He was beyond the front
5 door.

6 MS. MILLER: Beyond the front door, okay.
7 And did you say, I wasn't sure if I heard
8 correctly, that he wanted Mr. Carr arrested?

9 MS. HAMILTON: Yes.

10 MS. MILLER: Yes. Okay. Was Mr. Carr
11 arrested?

12 MS. HAMILTON: No.

13 MS. MILLER: Okay. Thank you.

14 CHAIRPERSON ANDERSON: Yes, Mr.
15 Silverstein.

16 MR. SILVERSTEIN: I'll keep it brief.
17 Thanks for coming up here.

18 MS. HAMILTON: Thank you.

19 MR. SILVERSTEIN: [inaudible] You
20 mentioned that -- stick around -- you mentioned

1 that ABRA investigators came there on a weekly
2 basis almost or sometimes even more than once a
3 week.

4 MS. HAMILTON: Correct.

5 MR. SILVERSTEIN: Did you and your staff
6 not recognize them by that time?

7 MS. MILLER: I recognized the two that
8 were there, Fox and Brashears, but I'd never seen
9 Stewart before.

10 MR. SILVERSTEIN: So you had never seen
11 Mr. Stewart before.

12 MS. HAMILTON: I had never seen him, not
13 on -- he's never been there on my shifts.

14 MR. SILVERSTEIN: Very well. No further
15 questions.

16 CHAIRPERSON ANDERSON: Oh, I'm sorry.
17 Questions?

18 MR. BIANCO: I have a couple based on --

19 CHAIRPERSON ANDERSON: Mr. Rivero goes
20 first and then you and.

1 MR. RIVERO: You have testified that Mr.
2 Stewart didn't really have any respect, that he
3 didn't want to calm down, that he seemed to be
4 creating an argument, that anytime you would say
5 anything he would respond negatively, that he
6 started yelling, stormed away, went through a
7 crowd, he shoved his way through. It's pretty
8 fair to say you were annoyed with Mr. Stewart
9 weren't you?

10 MS. HAMILTON: He was?

11 MR. RIVERO: You were annoyed with Mr.
12 Stewart weren't you?

13 MS. HAMILTON: No, I'm a very calm
14 person.

15 MR. RIVERO: I'm not asking you about
16 your demeanor --

17 MS. HAMILTON: You're asking if I was
18 annoyed?

19 MR. RIVERO: Because you're describing
20 this person as someone who didn't have any

1 respect. He was -- you were trying to be cordial
2 but he didn't want to calm down. Seemed to be
3 creating an argument. Every time you would say
4 something he would respond negatively, started
5 yelling and then stormed away. And he went
6 through and shoved his way through the crowd.
7 And you were fine with that.

8 MS. HAMILTON: If that's how he wants to
9 be --

10 MR. RIVERO: My question is if you were
11 fine with that, not about what he wants to be.
12 I'm asking you about your opinion of what was
13 going on.

14 MS. HAMILTON: My opinion of how he was?

15 MR. RIVERO: You were annoyed with him,
16 weren't you?

17 MS. HAMILTON: I thought his demeanor
18 could be annoying but as --

19 MR. RIVERO: Okay, that's fine, I
20 understand. You thought his demeanor could be

1 annoying. Did he insult you?

2 MS. HAMILTON: The way that he would not
3 respect the fact that I was the manager.

4 MR. RIVERO: Did he use any words to
5 insult you? Like what we would call an insult.

6 MS. HAMILTON: What would you call an
7 insult?

8 MR. RIVERO: Well, if I called you a
9 stupid person, for example only, that's an
10 insult.

11 MS. HAMILTON: That's a very big, I mean
12 there's small insults as well.

13 MR. RIVERO: Well, but I'm asking about
14 the big ones right now.

15 MS. HAMILTON: He did not use any big
16 insults.

17 MR. RIVERO: So, how did he then insult
18 you in a little way?

19 MS. HAMILTON: By not respecting the fact
20 that I was a manager there and he --

1 MR. RIVERO: Okay, how did he not respect
2 the fact that you were a manager there?

3 MS. HAMILTON: When I tried to let him
4 know who I was, he did not seem to care.

5 MR. RIVERO: So, he did not let you
6 identify yourself as an ABC manager?

7 MS. HAMILTON: Well, he never saw my ID -
8 - the officer saw my ID.

9 MR. RIVERO: No, we're talking about the
10 conversation that happened inside. He was at the
11 swinging doors --

12 MS. HAMILTON: Mm hmm.

13 MR. RIVERO: -- you testified that Mr.
14 Carr presented you with Mr. Stewart, and then
15 there was a conversation that ensued. I'm
16 imagining that's when he was insulting you.
17 Right there on the spot.

18 MS. HAMILTON: By pulling his badge out
19 after and asking for my employee's ID and
20 claiming that he wanted to arrest him.

1 MR. RIVERO: He asked you for your ID and
2 that's how you were insulted.

3 MS. HAMILTON: No, he was asking for my
4 employee's ID.

5 MR. RIVERO: And that's insulting to you?

6 MR. BIANCO: I'm going to object at this
7 point. Again I --

8 MS. HAMILTON: Thank you.

9 MR. RIVERO: I'm trying to understand
10 what --

11 MR. BIANCO: -- about her attitude inside
12 or whether or not she was insulted is not
13 relevant to the --

14 MR. RIVERO: I think it has a lot to do
15 with the characterization of investigator
16 Stewart. I'm trying to get at what exactly
17 insulted the witness and I just can't see
18 anything.

19 CHAIRPERSON ANDERSON: The objection is -
20 -

1 MS. HAMILTON: You were the one saying
2 that I was insulted.

3 CHAIRPERSON ANDERSON: Answer the
4 question. She hasn't answered so go ahead.

5 MR. RIVERO: I guess I just don't
6 understand how he failed to show any respect
7 towards you because based on what you're
8 describing it sounds like somebody could have
9 just been agitated as well and his actions could
10 just be the actions of a person who is angry.
11 You didn't see what happened in the hallway. You
12 testified you couldn't see the hallway. When we
13 were talking about that space. So anything could
14 have happened there and he could have been upset,
15 and so you could have been looking at an angry
16 person, not necessarily someone who was
17 disrespectful or insulting. Possibly

18 MS. HAMILTON: Possibly.

19 MR. RIVERO: Objection. What's the -- I
20 mean he's --

1 MS. HAMILTON: He could have been angry
2 in general.

3 MR. BIANCO: I object.

4 MR. RIVERO: Thank you.

5 CHAIRPERSON ANDERSON: The witness
6 answered the question. All right. Do you have
7 any other questions, sir?

8 MR. RIVERO: No, that's it.

9 CHAIRPERSON ANDERSON: Your witness, Mr.
10 Bianco.

11 MR. BIANCO: Okay. Are you familiar with
12 the type of communication device that Dan uses?
13 What is that?

14 MS. HAMILTON: A walkie talkie.

15 MR. BIANCO: Okay. Does he use the
16 earpiece and microphone and the pub microphone
17 attachments?

18 MS. HAMILTON: Yes.

19 MR. BIANCO: We had some testimony from
20 questions from Mr. Rivero and Mr. Stewart about

1 the swinging doors at the end of a hallway
2 through a corridor. What material are the doors
3 made out of?

4 MS. HAMILTON: I guess plexiglass, clear,
5 clear see-through material.

6 MR. BIANCO: You could see through?

7 MS. HAMILTON: Yes.

8 MR. BIANCO: Okay. Now, I wanna go back
9 and talk about some testimony that you had in
10 response to Mr. Alberti's questions about where
11 you were standing at the time you had a
12 conversation with Mr. Stewart and where you were
13 standing and you had a conversation with the
14 police, okay?

15 MS. HAMILTON: Okay.

16 MR. BIANCO: Your initial conversation
17 with Mr. Stewart took place where?

18 MS. HAMILTON: Inside of the bar.

19 MR. BIANCO: Okay. And I believe your
20 testimony was that Mr. Stewart went to find a

1 police officer?

2 MS. HAMILTON: Yes, he turned around and

3 --

4 MR. BIANCO: Did he exit the bar at that
5 point?

6 MS. HAMILTON: Yes.

7 MR. BIANCO: And did you exit the bar
8 following him?

9 MS. HAMILTON: Yes.

10 MR. BIANCO: And at what point did you
11 have a conversation with the police officer?

12 MS. HAMILTON: After he spoke with Mr.
13 Carr. It was probably a couple of minutes after.

14 MR. BIANCO: Okay, after you were on the
15 exterior of the establishment?

16 MS. HAMILTON: After I was at the doorway
17 where Dan's post was.

18 MR. BIANCO: Okay, so you were standing
19 Dan's post while he was doing what?

20 MS. HAMILTON: Speaking with an officer

1 or in the presence of him.

2 MR. BIANCO: And eventually there was a
3 walk-through of the premises of ABRA
4 investigators?

5 MS. HAMILTON: Correct.

6 MR. BIANCO: And that happened after
7 everybody spoke with the police.

8 MS. HAMILTON: Yes.

9 MR. BIANCO: Thank you I don't have
10 anything further.

11 CHAIRPERSON ANDERSON: Thank you for the
12 last question, you clarified something for me.
13 All right. Ms. Hamilton, thank you for your
14 testimony.

15 MS. HAMILTON: Thank you.

16 CHAIRPERSON ANDERSON: Hold on -- hold on
17 -- hold on. And also I was informed that you
18 live out of town but this still is an active case
19 so please do not discuss the nature of your
20 testimony with anyone.

1 MS. HAMILTON: Okay.

2 CHAIRPERSON ANDERSON: until this case is
3 over. And this case is going to be a while
4 before it's over, so you are not supposed to
5 discuss the nature of your testimony with anyone
6 involved in this case, okay?

7 MS. HAMILTON: Okay.

8 CHAIRPERSON ANDERSON: Thank you.

9 MS. HAMILTON: Thank you.

10 CHAIRPERSON ANDERSON: You're free to go.
11 Thank you. I'd say this is an appropriate time
12 for us to break this case and I think we have to
13 -- the agency will get back to the parties on how
14 quickly it will be rescheduled. So, you can
15 discuss with Ms. Jenkins and we'll take a short
16 period of time for us to reconvene.

17 MR. BIANCO: That's fine.

18 CHAIRPERSON ANDERSON: All right, Mr.
19 Rivero, I know that you're next. Do you want a
20 break? I can use another -- I can move forward

1 another case and give you a break.

2 MR. BIANCO: I just need a rest room

3 break. I think I can call the other case I don't

4 think it should be that long, I don't think.

5 (Whereupon the above-entitled proceedings were

6 completed.)

7]Time 4:21 p.m.]